



Local Rules

EFFECTIVE DECEMBER 1, 2002

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
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LOCAL RULES
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

(Effective December 1, 2002)

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LOCAL RULES
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
(Effective December 1, 2002)

Rule 1001-1. Scope of Rules; Sanctions; Definitions.

(A) Scope. These local rules are promulgated in accordance with Bankruptcy Rule 9029. They shall apply to all cases and proceedings arising in, under, or related to cases pending under Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Florida.

[Comment: These local rules are sequentially numbered to correspond to certain of the Federal Rules of Bankruptcy Procedure, if applicable, except that a dash and a fifth digit has been added in accordance with the directive of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. If no related national rule number exists, the local rule has been assigned a number for the related topic in accordance with the Judicial Conference of the United States Uniform Numbering System for Local Bankruptcy Rules.]

(B) District Court Rules. The Local Rules of the United States District Court for the Southern District of Florida shall not apply to cases or proceedings in the Bankruptcy Court, except to the extent that Local Rules 87.1 through 87.5 of the District Court governs bankruptcy matters.

[Comment: See Local Rule 87.1 of the United States District Court (giving bankruptcy court authority to enact local rules).]

(C) Incorporation by Reference. Reference in these rules to administrative orders, local forms, court guidelines or clerk's instructions shall mean the referenced order, form, guideline or instruction as revised or amended.

(D) Sanctions. The court, on its own motion or on the motion of any interested party, may impose sanctions for failure to comply with these rules, including: striking of papers filed with the court; dismissal of proceedings; dismissal or conversion of cases; or as may otherwise be appropriate under the circumstances.

(E) Waiver in Exceptional Circumstances. For good cause shown in exceptional circumstances, the court may suspend the requirements of any of these rules.

(F) Definitions.

- (1)** The terms “court”, “judge”, “clerk”, “local rule”, “local form”, and “administrative order” shall refer to the United States Bankruptcy Court for the Southern District of

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Florida and the judges, clerk, rules, and forms, respectively, of this Bankruptcy Court, unless otherwise specifically noted. The term “clerk” shall be interpreted to mean the clerk or members of the clerk’s staff.

- (2) “Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure.
- (3) “Individual” shall mean natural person, and “non-individual” shall mean corporation, partnership, trust, or other legal entity which is not a natural person.
- (4) “Parties of record”, when used by the clerk to designate service on specific parties, shall mean all parties listed on the three service matrices as described in Local Rule 2002-1(E)(1), (2), and (3).
- (5) Otherwise, the definitions of words in 11 U.S.C. § 101 and § 1101 and Bankruptcy Rule 9001, and the rules of construction in 11 U.S.C. § 102, govern their use in these rules.

Rule 1002-1. Commencement of Case.

(A) Petition Requirements. At the time of filing, each voluntary petition shall:

- (1) be accompanied by the appropriate number of copies and comply with any other requirements as set forth in the “Clerk’s Filing Instructions”;
- (2) if the case is being filed after dismissal of the debtor’s previous case by any bankruptcy court, be accompanied by a copy of the dismissal order and any other orders which set forth the conditions under which the subsequent case may be filed.

[Comment: See also Bankruptcy Rules 1002, 1007 (schedules), and 9009 (official forms), and Local Rules 1006-1 (installment payments), 1074-1 (corporations), 5080-1 and 5081-1 (filing fees), 5005-1(B) (place of filing), 5005-3, 5005-4, 9004-1, 9004-2, and 9011-4 (form requirements), 2090-1 (representation by attorney), and 9010-1(B)(1) (corporations, partnerships, trusts, and other business entities must be represented by counsel).]

(B) Clerk Authorized to Refuse for Filing Certain Voluntary Petitions.

The clerk shall not accept for filing:

- (1) any voluntary petition presented for filing by a debtor who had a prior case dismissed by an order which prohibited the debtor from filing for a period of time that has not yet expired, or where a court order sets forth conditions for refiling and those conditions have not been met; or

- (2) any voluntary petition presented for filing by a debtor which is accompanied by an application to pay filing and administrative fees in installments if filing fees remain due from any previous case filed by that debtor unless the application is accompanied by payment of all previously due fees.

[Comment: See also Local Rule 1006-1(C)(1) (refusal of petitions).]

Rule 1003-1. Involuntary Petitions.

(A) Non-Individual Debtors. An involuntary petition for a non-individual debtor shall state the name, title, and mailing address of the person who shall be designated in the order for relief to perform the duties of the debtor.

(B) Joint Debtors. An involuntary petition shall not be filed against joint debtors.


[Comment: See also Bankruptcy Rules 1007 and 9009, and Local Rules 5080-1 and 5081-1 (filing fees), 5005-3, 5005-4, 9004-1, 9004-2, and 9011-4 (form requirements), 2090-1(B) (special or limited appearance by attorney), and 9010-1(B)(1) (corporations, partnerships, trusts, and other business entities must be represented by counsel).]

Rule 1006-1. Installment Payments.

(A) A voluntary petition submitted in an individual or joint case without payment of the full filing and administrative fees must be accompanied by the Local Form “Application by Individual Debtor to Pay Filing and Administrative Fees in Installments and Order” and self-adhesive labels or pre-stamped envelopes bearing the names and addresses of the debtor, debtor’s attorney and petition preparer, if applicable. The application shall:

- (1) provide for a payment schedule of not more than 4 installments over 120 days, with the first installment of a \$30.00 minimum to accompany the application;
- (2) include a statement that the debtor has not paid any money or transferred any property to an attorney for services in connection with the bankruptcy and that no such payment will be made to an attorney or others for services in connection with the bankruptcy until the filing fees are paid in full;
- (3) include a statement that the debtor, in chapter 13, must pay the balance of the filing fees upon confirmation of the plan or, in chapter 7, shall not receive a discharge until the fees are paid in full;
- (4) if applicable, include a certification and signature of non-attorney bankruptcy petition preparer; and

- (5) be signed by the debtor or, if a joint case, by both debtors.


 2002 Amendment: Amended to incorporate the provisions AO 01-7.

(B) Approval of Application by Clerk. The clerk shall review the application and shall be authorized to sign the order in the name of the clerk on behalf of the court where the following conditions are met:

- (1) The application conforms to the requirements contained in subdivision (A) of this rule;
- (2) The first installment payment accompanies the application;
- (3) The petition accompanying the application contains the required information regarding disclosure of prior bankruptcy cases;
- (4) Copies of any orders required by Local Rule 1002-1(A)(2) accompany the petition;
- (5) The petition has not been filed within a “with prejudice” period or subject to any other court imposed refiling restriction still in effect; and
- (6) The debtor does not have any previous or pending cases where filing fees are owed.

(C) Refusal of Petition. Referral of Application to Court.

- (1) **Refusal of Petition.** The clerk shall refuse to accept for filing any petition accompanied by an application to pay the filing fee in installments where the requirements of subdivision (B) (5) or (6) of this rule have not been met.
- (2) **Referral of Application to Court.** If the requirements of subdivision (B)(1), (2), (3) or (4) are not complied with at the time of filing of the application, the clerk shall not approve the application pursuant to subdivision (B) of this rule. Instead, the application shall be referred to the court for review.

 2002 Amendment: Amended to clarify procedures for review of deficient applications to pay filing fee in installments.

(D) Dismissal of Case Upon Failure to Pay Installment Payment. Balance of Filing Fee Due

on Dismissal. The court shall dismiss without any further notice any case where an installment payment is not timely made in the required manner. The balance of the filing fee shall become due immediately upon the dismissal of a case or upon the failure to timely pay any installments.

[Comment: For the amount of the clerk's miscellaneous administrative fee, see the "Clerk's Summary of Fees"; See also Local Rule 1002-1(B) - Clerk Authorized to Refuse for Filing Certain Voluntary Petitions, Local Rule 1017-2(D) - Failure to Timely Remit Installment Payment and Local Rule 2002-1(C)(1)(f)(i) - clerk's notice to contain notice of intent to dismiss for failure to pay installment payment.]

Rule 1007-1. Lists, Schedules, and Statements; Extension of Time to File.

(A) Number; Form. Lists, schedules or statements filed shall be accompanied by the appropriate number of copies set forth in the "Clerk's Filing Instructions" and conform to the form requirements of Bankruptcy Rule 1007 and Local Rules 5005-3, 5005-4, 9004-1, 9004-2, and 9011-4.

(B) Schedules of Property Claimed as Exempt, Current Income, and Current Expenditures. The schedule of property claimed as exempt, schedule of current income, and schedule of current expenditures required pursuant to 11 U.S.C. § 521(1) and Bankruptcy Rule 1007(b)(1) are not required in a non-individual case.


(C) Extension of Time to File. Motions, pursuant to Bankruptcy Rule 1007(c) or 9006(b), to extend the time to file lists, schedules or statements must set forth the date of the scheduled § 341 meeting of creditors. If no date has yet been set, the motion should so state. Motions which seek to extend the time within 5 days before the § 341 meeting will be granted only after a hearing and only upon a showing of exceptional circumstances.

[Comment: See also Local Rule 9013-1(C)(2) (no hearing necessary).]

<p>✎ 2002 Amendment: Amended to require movant to indicate in the motion if no date has been set.</p>

Rule 1007-2. Mailing - List or Matrix.

(A) Service Matrix to Accompany Petition. Petitions shall be accompanied by a creditor service matrix prepared in the format required by the "Clerk's Instructions to Debtor for Submission of Initial Creditor Service Matrix and Requirements for Submitting Subsequent Amendments".

 2002 Amendment: Amended to reflect revised clerk's instructions.

(B) Amendments to Initial Creditor Service Matrix. Amendments to the initial creditor service matrix must comply with Bankruptcy Rule 1009 and Local Rule 1009-1

Rule 1009-1. Amendments of Petitions, Lists, Schedules, and Statements.

(A) Amendment to Petition.

(1) Debtor's Name. Petitions shall not be amended to change the name of the debtor, or delete the name of a joint debtor, except upon court order. Petitions shall not be amended to add the name of a joint debtor, but rather a separate petition must be filed.

(2) Social Security Number.

(a) Amendments Prior to Entry of Discharge. Requests for changes in debtor's social security numbers which are presented for filing prior to entry of a "Discharge of Debtor", and prior to the administrative closing of the case shall be processed by the clerk if such requests are presented in the form of a verified amended petition (declaration must be signed by the debtor, not attorney for debtor), accompanied by a certificate of service on all parties of record.

(b) Amendments Subsequent to Entry of Discharge. A request for a change in a debtor's social security number presented for filing subsequent to entry of a discharge of debt or the administrative closing of the case shall only be considered by the court upon the filing of a motion, accompanied by a verified amended petition (declaration must be signed by the debtor, not attorney for debtor), a Local Form "Notice of Hearing", and a certificate of service on all parties of record. The motion shall indicate whether an amended discharge is requested. If the case has been administratively closed, the request must also be accompanied by a "Motion to Reopen Case to Correct Social Security Number" and must be accompanied by the applicable re-opening fee. Amendments to a debtor's social security number shall not be effected in the court records and amended discharges shall not be issued absent entry of an order of the court directing such changes.

(c) Amendments to Correct Clerk's Scrivener's Error. The clerk shall, without court order, correct any scrivener's error by the clerk occurring during entry of debtor information into the court's records and serve notice of the correction on all parties of record.

✎ 2002 Amendment: Amended to incorporate provisions of AO 99-1 setting forth procedures for requests for amendments to social security numbers.

(B) Number; Form. Amended lists, schedules or statements filed pursuant to Bankruptcy Rule 1009 must be accompanied by the appropriate number of copies set forth in the “Clerk’s Filing Instructions” and conform to the form requirements of Local Rules 5005-3, 5005-4, 9004-1, 9004-2, and 9011-4.

(C) Local Form “Debtor’s Notice of Compliance with Requirements for Amending Creditor Information” and Official Form “Declaration Concerning Debtor’s Schedules” Required: As set forth in the “Clerk’s Instructions to Debtor for Submission of Initial Creditor Service Matrix and Requirements for Submitting Subsequent Amendments” the Local Form “Debtor’s Notice of Compliance with Requirements for Amending Creditor Information” and the Official Form “Declaration Concerning Debtor’s Schedules” shall accompany any paper required by Bankruptcy Rule 1007 or 1009 and filed after the initial creditor service matrix. If schedules or lists are amended to add or modify a creditor’s name or address a copy of the notice of the § 341 meeting of creditors (or any amended notice) shall be served on all affected parties, even if the meeting has already been held.

✎ 2002 Amendment: Amended to reflect revised clerk’s instructions and revised local form.

(D) Each Debtor to Sign. Amendments of the summary of assets and liabilities, schedules, statement of income and expenses, lists, statement of financial affairs, or statement of intent shall be signed by each debtor pursuant to Bankruptcy Rule 1008 and subdivision (C) of this rule.

(E) Amendment of Claimed Exemptions. The debtor shall serve notice of all amendments to the schedule of property claimed as exempt as provided in Local Rule 4003-1.

(F) Deadline for Amendments in Unconfirmed Chapter 13 Cases. Amended schedules and statements in a chapter 13 case which are necessary for confirmation must be filed no later than 10 days prior to the confirmation hearing. Copies of amended schedules and statements shall also be served on the chapter 13 trustee no later than 10 days prior to the scheduled confirmation hearing. Except for the service on the chapter 13 trustee, copies of amended schedules and statements must be served as provided by subdivision (C) of this rule.

[Comment: See also Local Rules 5005-1(F)(1) and (F)(3) (Two-day submission requirement on responses to motions and emergency filing procedures do not apply).]

Rule 1010-1. Summons in Involuntary Cases; Summons in Ancillary Cases. A party seeking issuance of a summons in an involuntary case or an ancillary proceeding shall deliver to the clerk the appropriate Local Form “Summons to Debtor In Involuntary Case” or “Summons in Section 304 Ancillary Proceeding” with the style, the clerk's division address where the case will be venued, and the petitioner’s attorney’s name and address filled in.

Rule 1013-1. Hearing and Disposition In Involuntary Cases.


(A) Contested Petition. If the debtor files a timely answer contesting the petition, the petitioning creditors shall file the Local Form “Certificate of Contested Matter” accompanied by the Local Form “Notice of Hearing”. The court will then set the contested petition for trial or, at its discretion, for pretrial conference and trial.

(B) Motion to Convert Chapter 7 Case. A motion to convert by the debtor in an involuntary chapter 7 proceeding shall be deemed a consent to entry of an order for relief under the chapter to which the case is being converted.

(C) Form of Order for Relief. An order for relief entered in an involuntary case shall conform to the Local Form “Order for Relief in Involuntary Case and Order Setting Deadline for Filing Schedules, Statements and Other Papers”.

(D) Debtor’s Failure to File Lists, Schedules, Statements, and Matrix. Upon notice to the court that the debtor has failed to comply with (1) the requirements of Bankruptcy Rule 1007 and Local Rules 1007-1 and 1007-2, and (2) the order for relief, the court shall issue an order to show cause against the debtor or other person designated by the court. The court shall not set any required deadlines and the § 341 notice shall not issue until a complete service matrix is filed in the format required by the “Clerk’s Instructions to Debtor for Submission of Initial Creditor Service Matrix and Requirements for Submitting Subsequent Amendments”.

[Comment: See also 11 U.S.C. §§ 706(a), 1112(a), 1208(a), and 1307(a), Bankruptcy Rule 1019 and Local Rules 1019-1 (converted cases), 1017-2(B) (dismissal of involuntary case for failure to appear at meeting of creditors), and 1074-1 (corporations).]

 2002 Amendment: Amended to reflect revised clerk’s instructions.

Rule 1014-1. Transfer of Cases.

(A) Clerk’s Duties. If a case or proceeding is transferred from this district, after the order of transfer becomes final the clerk, unless otherwise ordered, shall mail to the court to which the case

is transferred:

- (1) a certified copy of the court's order of transfer, its memorandum decision, if any, and the case docket; and
- (2) the originals of all other papers on file in the case or proceeding.

(B) Related Cases and Adversary Proceedings. Unless provided for in the order, the transfer of a case shall not include the transfer of any related case unless substantively consolidated but shall include the transfer of any adversary proceeding in the transferred case, and the transfer of an adversary proceeding shall not include the transfer of any related case or proceeding.

(C) Debtor to Provide Notice. The debtor shall provide notice to all parties of record of the transfer.

[Comment: See Local Rules 2002-1(I) and 5005-1(G)(2) (certificate of service required).]

(D) Cases Transferred to This Court. Cases or proceedings transferred to this court shall be assigned to a division and judge pursuant to Local Rule 1073-1.

Rule 1015-1. Joint Administration; Substantive Consolidation.

(A) Judicial Assignment. If a motion for joint administration accompanies a petition at the time of filing or, if no motion is filed, the clerk determines, at the time of filing, that the petitions appear to meet the conditions for joint administration pursuant to Bankruptcy Rule 1015(a) or (b), the clerk shall assign the cases to one judge pursuant to Local Rule 1073-1(B)(2). For cases jointly administered subsequent to the dates of filing of the cases, the court shall determine judicial assignment of the cases.

(B) Motion.

- (1) **Content.** Motions for joint administration shall include a statement as to whether joint administration will give rise to any conflict of interest among the estates of the cases to be jointly administered.
- (2) **Consideration of Motion by Court.**
 - (a) **Chapter 11 Cases.** A motion for joint administration filed in a chapter 11 case may be considered by the court ex parte if filed in accordance with Local Rule 5005-1(G)(1)(a) and Local Rule 9013-1(C)(14).
 - (b) **Cases Other Than Chapter 11.** A motion for joint administration filed in other

than a chapter 11 case shall be considered by the court after hearing on notice pursuant to Local Rule 9013-1(D)(4)(c)(x) and in accordance with Local Rule 9073-1.

(C) Local Form Order Required. A proposed order jointly administering a case shall conform to the applicable local form order jointly administering cases.

(D) Manner of Joint Administration. Jointly administered cases shall be administered as follows:

- (1) Designation of Lead Case.** For cases filed at the same time, the first case assigned to a judge shall be designated in the joint administration order as the “lead case”. For cases jointly administered subsequent to the original filing date, the order for joint administration shall designate the “lead case”.
- (2) Style of Court Papers.** Court papers filed after joint administration shall be styled as provided in Local Rule 9004-1(E).
- (3) Docket.** A single case docket shall be maintained after the entry of the order for joint administration, under the case number of the case designated in the joint administration order as the “lead case”.
- (4) Claims.** A separate claims register shall be maintained for each case. Claims shall be filed only in the name and case number of the debtor against which the claim is asserted. A separate claim must be filed in each jointly administered case in which a claim is asserted against the particular debtor.
- (5) Ballots.** A separate ballot register shall be maintained in each case in which a separate plan was filed. Ballots shall be styled only in the case name and number of the member case for which the plan being voted on was filed.

(E) Substantive Consolidation. Court papers filed after substantive consolidation shall be styled as provided in Local Rule 9004-1(F), but creditors receiving computer-coded forms should submit claims utilizing those forms. Any claim filed and docketed prior to the consolidation or received at any time on a computer-coded form shall remain docketed on the register and maintained in the file for the case number for which it was submitted.

[Comment: See Local Rule 9004-1 and 9004-2 (style of papers).]

Rule 1017-1. Conversion - Request For/Notice of.

(A) Required Local Form Order for Conversion by the Debtor. A motion to convert or notice of conversion pursuant to 11 U.S.C. § 706(a), § 1112(a), § 1208(a) or § 1307(a), must be accompanied by the appropriate local form order converting case or order upon conversion.

(B) Required Proposed Order for Conversion Requiring a Hearing. Any party directed to submit a conversion order shall submit a proposed order which conforms to the applicable local form order of conversion.

(C) Required Fees.

- (1) Fee for Motion for or Notice of Conversion to Chapter 7.** The required fee for filing a motion for or notice of conversion to chapter 7 must be remitted at the time of filing the motion or notice.
- (2) Additional Filing Fee Due Upon Conversion From Chapter 7 or 13 to Chapter 11 By Debtor.** Requests for conversion from chapter 7 or chapter 13 to chapter 11 by the debtor must be accompanied by the applicable filing fee.

[Comment: See “Clerk’s Summary of Fees”.]

 2002 Amendment: Amended to reference fees applicable for conversions.

Rule 1017-2. Dismissal of a Case.

(A) Failure to File Required Papers. The court may dismiss a voluntary case under any chapter without further notice or hearing for failure by the debtor to file required schedules, statements or lists, and may dismiss a chapter 13 case for failure to file a chapter 13 plan, upon determination that:

- (1)** either
 - (a)** the clerk has served on the debtor a warning as provided by Local Rule 2002-1(C)(1)(f)(i); or
 - (b)** the clerk has provided to the debtor and the debtor’s attorney or bankruptcy petition preparer, prior to the expiration of the deadline for filing, notice of the deficiency and a warning that the case will be subject to dismissal without further notice; and
- (2)** the debtor has failed to file the required papers by the deadline and no timely filed request for an extension of time is pending before the court.

(B) Failure to Appear at Meeting of Creditors in Chapter 7, 11, and 12 Cases. The court may dismiss a voluntary case under chapter 7, 11 or 12 without further notice or hearing for failure of the debtor (or in the case of a non-individual debtor, the debtor’s president, managing partner or

other knowledgeable officer) to appear at the § 341 meeting, upon submission by the trustee of the Local Form “Chapter 7 Trustee’s Motion to Dismiss Case for Failure by Debtor to Appear at the § 341 Meeting of Creditors” and the proposed Local Form “Order Dismissing Chapter 7 Case for Failure to Appear at §341 Meeting of Creditors” or upon the motion of the U.S. trustee and upon determination that:

- (1) the clerk has served notice of the intended action, by warning in the § 341 or post-conversion meeting notice as provided in Local Rule 2002-1(C)(1)(f)(i);
- (2) there is no motion pending, pursuant to Local Rule 2003-1, to reconsider the trustee’s or U.S. trustee’s denial of a request for continuance of the meeting; and
- (3) the case was not commenced as an involuntary case.

In an involuntary case, a motion to dismiss for failure of the debtor (or in the case of a non-individual debtor, the debtor’s president, managing partner or other knowledgeable officer) to appear at the § 341 meeting shall be scheduled for hearing in accordance with Local Rule 9073-1.

(C) Failure to Appear at Meeting of Creditors in Chapter 13 Cases. The court may dismiss a case under chapter 13, without further notice or hearing, for failure by the debtor to appear at the § 341 or post-conversion meeting if the clerk served notice of the intended dismissal on the debtor by warning as provided in Local Rule 2002-1(C)(1)(f)(i).

(D) Failure to Timely Remit Installment Payment. The court may dismiss a case without further notice or hearing where an application to pay filing and administrative fees in installments has been granted upon determination that the debtor has failed to make a timely payment if the clerk served the warning as required by Local Rule 2002-1(C)(1)(f)(i).

(E) Fees Outstanding at Time of Dismissal. The balance of any statutory or court-ordered fees, including filing fees, conversion fees, and U.S. trustee’s fees, due and owing at the time of dismissal must be immediately paid in full.

(F) Disposition of Funds by Chapter 12 or 13 Trustee Upon Dismissal of Case. Upon the dismissal of a case under Chapter 12 or Chapter 13 of the Bankruptcy Code, the trustee shall dispose of funds in the following manner:

- (1) If there is a confirmed plan in the case, the trustee shall pay any funds received prior to the entry of the order dismissing the case to creditors pursuant to the terms of the plan. All funds received after the entry of the order shall be paid or returned to the debtor.
- (2) If there is neither a confirmed plan nor an order directing otherwise, the trustee shall pay all funds, regardless of the time of receipt, to the debtor.


- (3) Notwithstanding subdivisions (1) and (2), any remaining balance owed by the debtor to the court for filing fees and clerk's fees shall be paid by the trustee to the court prior to making any refund to the debtor.

[Comment: See also 11 U.S.C. § 347(a) (unclaimed funds), Local Rule 2002-1(C)(6) (clerk to serve notice of dismissal), and Local Rule 9013-1(D)(3)(i) (dismissal of cases other than chapter 13 on negative notice).]

Rule 1019-1. Conversion and Reconversion - Procedure Following.

(A) Extension of Time to File Post-Conversion Schedules. Any motion pursuant to Bankruptcy Rule 1019 and 9006(b) to extend the time to file lists, schedules or statements must set forth, if known, the date of the scheduled post-conversion meeting of creditors. If no date has been set, the motions should so state. Motions which seek to extend the time within 5 days before the post-conversion meeting of creditors will be granted only after a hearing and only upon a showing of exceptional circumstances.

(B) Schedule of Postpetition Debts and Service Matrix and Notice Requirements. The schedule of postpetition debts required by Bankruptcy Rule 1019(5) or subdivision (C) of this rule shall be accompanied by a supplemental service matrix and notice to the affected parties shall be given as required by the "Clerk's Instructions to Debtor for Submission of Initial Creditor Service Matrix and Requirements for Submitting Subsequent Amendments" and Bankruptcy Rule 1009. If no unpaid debts have been incurred since the commencement of the case, a certification to this effect shall be filed.

 2002 Amendment: Amended to reflect revised clerk's instructions.

(C) Applicability of Bankruptcy Rule 1019 to Chapters 11, 12, and 13. The provisions of Bankruptcy Rule 1019(1)(A), (2), (3), (4), and (6) shall apply to cases converted or reconverted to cases under chapter 11, 12 or 13. Upon conversion, all property shall be turned over to the debtor in a chapter 13 case or to the trustee or debtor in possession in a chapter 11 or 12 case. The final report and schedule of unpaid debts required by Bankruptcy Rule 1019(5) shall be filed by the trustee in a case converted from chapter 7, and by the trustee or debtor in possession in a case converted from chapter 11 or 12. In a case converted from chapter 13, the trustee shall file the final report and the debtor shall file the schedule of unpaid debts. The deadline for fee applications arising from the superseded case is provided in Local Rule 2016-1(C)(2) and (4)(c).

(D) Disposition of Funds by Chapter 12 or 13 Trustee Upon Conversion of Case. Upon the conversion of a case under Chapter 12 or Chapter 13 of the Bankruptcy Code, the trustee shall dispose of funds, with notice to any subsequent trustee, in the following manner:

- (1) If there is a confirmed plan in the case, the trustee shall pay any funds received prior to the entry of the order converting the case to creditors pursuant to the terms of the plan. All funds received after the entry of the order shall be paid or returned to the debtor.
- (2) If there is neither a confirmed plan nor an order directing otherwise, the trustee shall pay all funds, regardless of the time of receipt, to the debtor.
- (3) Notwithstanding subdivisions (1) and (2), any remaining balance owed by the debtor to the court for filing fees and clerk's fees shall be paid by the trustee to the court prior to making any refund to the debtor.

(E) Filing Claims in Cases Converted From Chapter 13 to Chapter 7. Chapter 13 cases converted to chapter 7 shall be designated as no asset cases. Upon the filing of a "Notice of Assets" by the chapter 7 trustee in a case converted from chapter 13, a claims bar deadline shall be established pursuant to Bankruptcy Rule 3002(c)(5).

(F) Deadline for Filing Postpetition Claims.

- (1) **In Converted Cases.** Pursuant to Bankruptcy Rule 1019(6), the deadline for filing by a nongovernment unit of a request for payment of an administrative expense (including, as permitted by Local Rule 3001-1(B), a proof of claim alleging a § 503 claim) or a claim filed pursuant to § 348(d) of the Bankruptcy Code shall be 90 days from the date of the post conversion meeting. This deadline shall be subject to modification, as applicable, by the provisions of Local Rules 1019-1(E) or (F)(2), 3002-1, and 3003-1.
- (2) **In Reconverted Cases.** In asset cases where a schedule of unpaid debts has been filed pursuant to Bankruptcy Rule 1019(5) and where a new claims bar deadline will not be set for all creditors since the original claims bar date had expired prior to conversion, the party filing the schedule of postpetition debts required by Bankruptcy Rule 1019(5) or subdivision (B) of this rule shall file a timely motion requesting that the court set a deadline for postpetition creditors to file claims in accordance with Bankruptcy Rule 1019(6) and this subdivision. Service of the order setting deadline shall be provided by the party filing the motion.

✎ 2002 Amendment: Amended to establish a deadline for filing requests for payment of administrative expenses pursuant to section 503 of the Code and for filing section 348(d) claims.

(G) Extension of Deadline to Object to Exemptions in Converted Cases. The deadline for objection to exemptions in converted cases shall be extended pursuant to Local Rule 4003-1(B).

✎ 2002 Amendment: Amended to reference new rule on extension of deadline for objection to exemptions in converted cases.

[Comment: See Bankruptcy Rules 1017(f) (proceeding to convert case) and 4003(b) (clerk's deadline for objecting to exemptions), Local Rule 2002-1(C)(1) (notifications of deadlines required in notices), Local Rule 3002-1(A) (claims deadline in cases converted from chapter 13 to chapter 7) and Local Rule 9013-1(D)(3)(h) (conversion of cases other than chapter 13 on negative notice).]

Rule 1020-1. Notice of Election of Small Business Reorganization. Upon election to be considered a small business pursuant to Bankruptcy Rule 1020, the debtor shall provide notice of election to all parties of record.

[Comment: See also Local Rule 3017-2 (disclosure and confirmation in small business cases).]

Rule 1071-1. Divisions - Bankruptcy Court. The court maintains permanent offices located in Miami, Ft. Lauderdale and West Palm Beach. At the time of filing or transfer, cases are assigned to one of three divisions: the Miami Division, consisting of Miami-Dade and Monroe Counties; the Fort Lauderdale Division, consisting of Broward County; and the West Palm Beach Division, consisting of Palm Beach, Highlands, Indian River, Martin, Okeechobee, and St. Lucie Counties.

Rule 1073-1. Divisional and Judicial Assignment of Cases.

(A) Divisional Assignment. When assigning divisional venue, the clerk shall:

- (1) if the debtor is an individual, assign the case to the division where the “Street Address of Debtor” is located according to the petition;
- (2) if the debtor is a non-individual, assign the case to the division which the petition indicates is the “Location of Principal Assets of Business Debtor”;
- (3) if joint administration appears to be appropriate under Local Rule 1015-1(A) because a related case is pending in this court, assign the case to the division in which the related case is pending without regard to subdivisions (1) and (2); or
- (4) if the Local Form “Declaration of Divisional Venue” accompanies the petition, assign the case to the declared division without regard to subdivisions (1), (2) and (3).

A Declaration of Divisional Venue shall (1) state as the basis for divisional venue a ground available for declaring district venue pursuant to 28 U.S.C. § 1408 and (2) state a basis which justifies that assignment to the declared division is in the greater interests of judicial economy and efficiency. Assignment of the case pursuant to such a declaration is subject to judicial review.


[Comment: See Local Rule 1071-1 (divisions of court).]

(B) Judicial Assignment.

- (1) Except as provided in subdivision (2), all cases shall be assigned on a blind rotation basis, within each chapter category, to a judge assigned to hear cases in the division to which the case has been assigned pursuant to subdivision (A).
- (2) Assignment to a specific judge shall be made without regard to divisional classification in the following cases:

 - (a) all husband and wife cases, whether filed jointly or severally, shall be assigned to the same judge;
 - (b) related cases shall be assigned to the same judge pursuant to subdivision (B)(1) if the petition is accompanied by a motion for joint administration at the time of filing or upon determination by the clerk that the cases may be ordered jointly administered pursuant to Bankruptcy Rule 1015; and
 - (c) cases assigned to the West Palm Beach division shall, upon conversion to chapter 13, be assigned to the judge chambered in that division.
- (3) A matter from which a judge has been recused shall be randomly reassigned by the clerk to another judge.
- (4) The judge to whom any case or proceeding is assigned may, at any time, reassign the case or proceeding to any other consenting judge in its entirety or for any limited purpose.

[Comment: See also Local Rules 1015-1(A) (judicial assignment of related case filed later) and 7003-1(C) (judicial assignment of adversary proceedings).]

 2002 Amendment: Amended to incorporate the provisions AO 98-8.

Rule 1074-1. Corporations. A voluntary petition or consent to an involuntary petition filed by a corporation shall be accompanied by a copy of the duly attested corporate resolution (or other appropriate authorization) authorizing the filing or consent, if involuntary petition.

[Comment: See also Local Rule 9010-1(B)(1) (corporations must be represented by counsel).]

✎ 2002 Amendment: Amended to include new requirement that document authorizing corporate bankruptcy accompany the petition.

Rule 1075-1. Notice to Consumer Debtors of Alternative Chapters. The clerk shall be deemed to be in compliance with 11 U.S.C. § 342(b) by posting in each public intake area of the clerk's office and by making available to all requesting parties copies of the local form containing the notice provisions required by the statute.

Rule 2002-1. Notices.

(A) By Whom Served. Unless otherwise provided by these rules or order of the court:

- (1) The proponent of any action in any case or proceeding shall serve notice of the proposed action on all parties to whom notice of the proposed action is mandated by the Bankruptcy Rules or by these rules and on all directly affected parties. The proponent shall serve notice of any hearing scheduled on the proposed action on the same parties in the manner provided by Local Rule 9073-1 or, if applicable, subdivision (K) of this rule.
- (2) If the proponent of any action is the U. S. trustee, or a trustee in a case designated in the § 341 or post-conversion meeting notice as a no-asset case, and the rules require service upon all creditors in addition to other affected parties, the proponent shall prepare the notice and the clerk shall provide the required service.

[Comment: See also Local Rules 2002-1(I) (certificate of service required), 9073-1 (notices of hearing) and 9013-1(C) (motions for which no hearing is necessary).]

(B) Notices Required to be Served by Clerk or Other Person. Unless otherwise directed by the court, wherever the Bankruptcy Rules or Local Rules require that the clerk or some other person as the court may direct shall provide notice pursuant to that rule, the clerk is authorized to designate a trustee, debtor in possession, or other party to provide any notice required to interested parties where the interests of justice and efficiency are served. The clerk is further authorized to review the form of all such notices to ensure that the notice complies with the requirements of the court and appropriate rules.

(C) Form, Content, and Manner of Service of Particular Notices.

- (1) **Clerk's Notices of Bankruptcy Case, § 341 Meeting or Post-Conversion Meeting, Chapter 13 Confirmation Hearing, Deadlines, and Intended Actions.** The clerk shall prepare notices in each case filed and in each case converted, which set forth:

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- (a) the date the case was filed, the date of entry of the order for relief in an involuntary case or date of conversion of the case and the date, time and location of the meeting of creditors pursuant to § 341 of the Code;
- (b) the deadlines, if applicable, for filing claims pursuant to Bankruptcy Rules 1019, 3002(c) or 3003(c)(3) and Local Rules 1019-1, 3002-1, or 3003-1 or the notice of no dividend pursuant to Bankruptcy Rule 2002(e) or Local Rule 1019-1(E);
- (c) the deadline, if applicable, for filing complaints objecting to discharge pursuant to Bankruptcy Rules 1019 and 4004 or Local Rules 1019-1 and 4004-2 or dischargeability pursuant to Bankruptcy Rules 1019 and 4007(c) and Local Rules 1019-1 and 4007-1;
- (d) the deadline, if applicable, for filing objections to the debtor's claimed exemptions pursuant to Bankruptcy Rule 4003(b) and Local Rule 4003-1;
- (e) in chapter 13 cases, the date of the hearing on confirmation and the deadline, if applicable, for filing objections to the confirmation of the chapter 13 plan;
- (f) any notice of intended action, including that:
 - (i) the failure of the debtor (or if a non-individual debtor, the debtor's president, managing partner or other knowledgeable officer) to appear at the § 341 meeting or to timely file required lists, schedules, statements, or a chapter 13 plan or to timely remit an installment payment or to pay the balance of the filing fee in full may result in dismissal, conversion, denial of the debtor's discharge, or other appropriate relief without further notice or hearing; and

[Comment: See Local Rule 1017-2(A), (B), (C), and (D) (dismissal of case) and 1019-1 (conversion of case).]

- (ii) the chapter 7 trustee may abandon at the § 341 or post-conversion meeting all property that the trustee has determined is of no value to the estate; and

[Comment: See Local Rule 6007-1(A) (abandonment of assets at meeting of creditors).]

- (g) the name of the interim or standing trustee, if any, appointed by the U.S. trustee.
- (2) **Notice of Sale.** The trustee or debtor in possession shall prepare and serve a notice of use, sale or lease of any property as provided by Local Rule 6004-1.
- (3) **Notice of Continued or Rescheduled § 341 Meeting, Post-Conversion Meeting or Chapter 13 Confirmation Hearing.** The party requesting the rescheduling shall

provide notice of any rescheduled § 341 meeting, post-conversion meeting, or chapter 13 confirmation hearing, but no written notice shall be necessary for a § 341 meeting, post-conversion meeting, or chapter 13 confirmation hearing continued after it begins if the continued date is announced at the meeting or hearing.

[Comment: See also Local Rule 2002-1(C)(8) (notice of continued chapter 11 confirmation hearings).]

- (4) Notice of Entry or Denial of Discharge.** In a chapter 7, 12 or 13 case, the clerk, or the clerk's designee under subdivision (B), shall provide notice of entry of an order of discharge or an order denying discharge by serving the order on all creditors and other parties. In a chapter 11 case, notice of entry of the discharge shall be provided in the order confirming plan.

[Comment: See Bankruptcy Rules 4004 and 4006 and Local Rules 4004-2, 4004-3 and 4006-1, (grant or denial of discharge).]

- (5) Chapter 13 Plan; Amended Plan.** The clerk, or the trustee if the clerk so designates, shall serve the Local Form "Chapter 13 Plan" filed pursuant to Local Rule 3015-1(B). The attorney for the debtor or clerk, if the debtor is not represented by counsel, shall serve any subsequently filed amended or modified plan and any notice of hearing on all affected parties.

[Comment: See Bankruptcy Rule 3015 and Local Rules 3015-1(B) and 3015-2 (form, notice and deadline requirements for chapter 13 plans and amended plans).]

- (6) Notice of Entry of Order Dismissing Case or Order Vacating Dismissal of Case.** The clerk, or the clerk's designee under subdivision (B), shall serve the order of dismissal or order vacating order of dismissal entered in any case.
- (7) Notice of Claims Deadline in Chapter 7 Cases Reopened to Administer Additional Assets or Former No Asset Chapter 7 Cases.** The clerk, or the clerk's designee under subdivision (B), shall serve any order or notice setting a deadline pursuant to Local Rule 3002-1 for filing claims in a chapter 7 case reopened to administer additional assets or a chapter 7 no asset case where the chapter 7 trustee has filed a Notice of Assets.
- (8) Notice of Chapter 11 Disclosure Statement and Confirmation Hearings and Continued Hearings.** The proponent of the chapter 11 plan and disclosure statement shall provide the notice required pursuant to Bankruptcy Rules 2002(b)(1), 2002(b)(2), 2002(d)(5), 2002(d)(6), 2002(d)(7), and 3017, using the appropriate local forms described in Local Rules 3016-2 and 3017-2. The party seeking the continuance of any chapter 11 disclosure statement hearing or confirmation hearing shall provide notice of the continued hearing, but no notice shall be necessary for a disclosure statement hearing

or confirmation hearing continued after it begins if the continued date is announced at the noticed hearing.

[Comment: See also Local Rules 3017-1 and 3017-2 (service of disclosure statement, plan, and ballot).]

- (9) Notice of Fee Applications in Chapter 11 Case.** The proponent of a chapter 11 plan shall serve a list of fee applicants in the form prescribed by Bankruptcy Rule 2002(c)(2), in accordance with Bankruptcy Rule 2002(a)(6) or, if applicable, Local Rule 2002-1(K), at least 15 days before the date of the confirmation hearing or within such other time set by the court.


[Comment: See also Bankruptcy Rules 2002(a)(6) (service on trustee and all creditors required) and 2002(k) (service on U.S. trustee required) and Local Rule 2016-1(C)(1) (deadline for filing fee applications).]

- (10) Notice of Chapter 7 Trustee's Final Report of Estate and Proposed Dividends and Applications for Compensation and Setting Deadline for Objections.** In chapter 7 cases in which the amount of net proceeds realized exceeds the amount set forth in Bankruptcy Rule 2002(f)(8), or the amount of any application for compensation exceeds the amount set forth in Bankruptcy Rule 2002(a)(6), the clerk, or the clerk's designee under subdivision (B), shall provide notice of the trustee's final report of estate, the court's intention to approve the fee applications, and the twenty-day deadline for objecting to the final report or the fee applications.

[Comment: See also Bankruptcy Rules 2002(a)(6) and (f)(8) (notice of fee applications and notice of final report) and Local Rules 2016-1(C)(2) (deadline for fee applications) and 3009-1 (trustee's final report and proposed dividend).]

- (11) Service of Order Confirming Plan.** In a chapter 11 or 12 case, the proponent of the plan shall serve the order confirming plan. In a chapter 13 case, the clerk, or some other person as the court may direct shall serve the appropriate local form order confirming plan. Orders confirming plans shall be served on all parties of record.

[Comment: See Bankruptcy Rule 3020(c) (notice of entry of confirmation order) and Local Rule 5005-1(G)(2) (service of orders generally).]

 2002 Amendment: Amended to reflect current practice in accordance with AO 99-2.

(D) Service Matrices Available from the Clerk. Parties responsible for providing service of any notice, order or other paper may obtain an updated service matrix, appearance list or claims register

matrix described in subdivision (E) from the clerk. It is the responsibility of the requesting party to inspect the service matrix to ensure that all parties who must be served are included.

[Comment: See also Local Rule 2002-1(K) (chapter 11 debtor's "Master Service List").]

(E) Service Databases Maintained by the Clerk. The clerk shall maintain and upon request provide any party with updated service lists maintained by the court. Verification that a particular party appears accurately on any service matrix, appearance list or claims register prepared by the clerk's office is the responsibility of the party providing notice and the party listed. Omissions of parties on any service list maintained by the clerk due to failure by the debtor or other responsible party to provide the clerk with supplemental matrices, or where applicable, notices of change of address, shall be the responsibility of that party to correct. Determination as to the appropriate parties to serve shall be the responsibility of the party providing service. The lists maintained shall include:

- (1) Service Matrix.** A service matrix of all participants in a case shall include all creditors listed by the debtor on the original service matrix, as amended by the filing of any supplemental matrix by the debtor modified or updated as a result of creditors who file claims and parties who file appearances and changes of address with the court. This list shall also include parties added to the case by the clerk, including the debtor, attorney for debtor, trustee and required government agencies.
- (2) Appearance List.** An appearance list provided by the clerk shall include only those parties who have filed an actual notice of appearance or who have appeared by the filing of any other paper which is docketed in the case. Claims filed in asset cases will appear on the claims register and on the service matrix, but will not appear on an appearance list.
- (3) Claims Register Matrix.** The claims register matrix shall list the names and addresses of all claimants who filed claims in an asset case. Claims filed in any case in which a notice of no assets was provided shall not be docketed unless the case becomes an asset case.

(F) Limiting Notices in Chapter 7 Cases to Creditors Whose Claims are Filed. In a chapter 7 case, after 90 days following the first date set for the meeting of creditors pursuant to 11 U.S.C. § 341, a party serving any notice required by Bankruptcy Rule 2002(a), except clause (4) thereof, may limit the notice to (1) parties who have filed notices of appearance, (2) creditors whose claims have been filed, and (3) creditors, if any, who are still permitted to file claims by reason of an extension granted under Bankruptcy Rule 3002(c)(5). In a case where notice of insufficient assets to pay a dividend has been given to creditors pursuant to Bankruptcy Rule 2002(e), after 90 days following the mailing of a notice of the time for filing claims pursuant to Bankruptcy Rule 3002(c)(5), a party serving notices may limit notices to entities specified in the preceding sentence.

(G) Returned Mail. At the clerk’s discretion, notices mailed by the clerk may indicate the return address of the debtor’s attorney, or if the debtor is not represented by counsel, the debtor, so that returned mail will be received by the debtor’s attorney or debtor for correction.

(H) Multi-paged Notices. Multiple page one-sided papers may be condensed to two-sided papers for noticing purposes, but the first page of a paper may not be printed on the reverse side of a separate paper, except by the clerk.

(I) Certificate of Service. A party who provides notice of any requested relief, proposed action or other service pursuant to the Bankruptcy Rules, these rules, or by order of the court shall, within 2 days, file a certificate of service indicating the date and manner of service and including the names and addresses of all parties served. The list of names and addresses need not be attached to the paper being served on the parties.

[Comment: See also Bankruptcy Rule 2002 and Local Rules 5005-1(G) (service of orders), and 9013-1(B) (service of motions).]

(J) Attorney Changes of Address. A change of address of an attorney shall be effective in the court record of a case only upon the filing of a separate “Notice of Change of Address” in each case in which the attorney wishes the change to be reflected.

(K) Designation of “Master Service List” in Chapter 11 Cases.

(1) In a chapter 11 case having more than 75 parties of record, a party responsible for service, may, at the server’s option and in lieu of service on all parties of record, or must, if the court or these rules direct, serve the following parties:

- (a)** The U.S. trustee;
- (b)** The debtor;
- (c)** The debtor’s attorney;
- (d)** Any indenture trustees;
- (e)** The members of and attorneys to any official committee established pursuant to 11 U.S.C. §1102, and, before such appointment, the creditors shown on the list required by Bankruptcy Rule 1007(d);
- (f)** Creditors holding claims known to be secured by property in which the estate has an interest;
- (g)** The United States and its agencies as required by Bankruptcy Rule 2002(j);

- (h) Those parties and attorneys who have formally requested notice by filing with the court and serving upon debtor's attorney a notice of appearance or request for service of notices and papers in the case;
- (i) Any examiner or trustee (and their attorneys) appointed in the case; and
- (j) Any parties and entities (including local governmental units) previously known to the debtor to have a particularized interest in the subject of the notice(s) required to be served.

A certificate of service must be filed pursuant to subdivision I of this Rule.


- (2) The names and addresses for the parties listed in subdivision (K)(1) shall constitute the "Master Service List" in each case which shall be maintained by the debtor's attorney, or if applicable, by the chapter 11 trustee's attorney, who shall update the "Master Service List" no less than once each month by adding or modifying the names and addresses of those parties as listed in subdivision (K)(1) during the previous month and file the updated "Master Service List" with the clerk and serve a copy upon all parties listed. In addition, if a party added to or modified on the "Master Service List" is a creditor, the debtor's attorney or, if applicable, the chapter 11 trustee, shall file amended schedules in accordance with Bankruptcy Rule 1009 and Local Rule 1009-1. If the added or modified party is not a creditor, the debtor's attorney, or if applicable, the chapter 11 trustee, shall advise the party in writing that the party must file directly with the court, as applicable, a claim, notice of appearance or notice of change of address, in order to be added to or correctly reflected in the service databases maintained by the clerk and to receive any notices other than those pursuant to this Rule. Notice in the case will at all times be deemed proper and adequate if papers, and the notices related to such papers, are timely served upon any party whose interests are directly affected by a specific paper, and upon those parties on the "Master Service List". Notwithstanding the provisions of this Rule, the service databases maintained by the clerk, as set forth in Local Rule 2002-1(E) shall not be updated by the clerk upon the filing of a "Master Service List". Additions to or modifications of the clerk's service databases shall only occur upon the filing with the clerk of, as applicable, amended schedules, proofs of claim, notices of appearance or changes of address pursuant to and in accordance with the provisions of the Bankruptcy Rules and the Local Rules, including Local Rules 1007-2, 1009-1, 1019-1, 2002-1, 3002-1 and 3003-1.
- (3) Except as otherwise provided by these rules or the court, subdivision (K)(1) shall not apply to notices required to be served on the debtor, the trustee, equity security holders, and all creditors and indenture trustees pursuant to Bankruptcy Rule 2002, including, without limitation, the notice of

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- (a) commencement and the meeting of creditors under 11 U.S.C. §§ 341 or 1104(b);
 - (b) a proposed use, sale or lease of all or substantially all of the property of the estate;
 - (c) the time fixed for filing objections and the hearing to consider approval of a disclosure statement pursuant to Bankruptcy Rule 3017 and Local Rule 3017-1;
 - (d) the time fixed for filing objections and the hearing to consider confirmation of a plan pursuant to Bankruptcy Rule 3020 and Local Rule 3020-1;
 - (e) the hearing on the dismissal or conversion of the case to another chapter; and
 - (f) entry of an order confirming a plan.
- (4) Upon timely motion of any party of record, the court may consider, for cause shown, making this Rule applicable to a chapter 11 case with fewer than 75 parties.

 2002 Amendment: Amended to permit, in chapter 11 cases with more than 75 creditors and parties in interest service to be limited to designated parties for designated notices.

(L) Electronic Service by Clerk. The clerk is authorized to enter into agreements with designated creditors providing for service of designated notices by the clerk via electronic transmission. A creditor entering into an agreement for service by electronic transmission shall be deemed to have been served if served in accordance with the terms of the agreement.

 2002 Amendment: Amended to incorporate the provisions of AO 00-1.

Rule 2003-1. Meeting of Creditors. Requests to reschedule the § 341 or post-conversion meeting of creditors must be directed to the trustee, with a copy to the U.S. trustee, or, in chapter 11 cases, to the U.S. trustee. Only if the request is denied may the debtor file with the court a motion to reschedule. If the request is granted, notice of the rescheduled § 341 meeting shall be provided pursuant to Local Rule 2002-1(C)(3).

Rule 2004-1. Examinations of Debtor and Others.

(A) Manner of Setting Examination. No order will be necessary to authorize an examination pursuant to Bankruptcy Rule 2004, or to require the debtor to produce documents at the examination.

Examinations may be scheduled upon notice served on the trustee, the debtor, the debtor's attorney and the party to be examined, using the Local Form "Notice of Rule 2004 Examination", and, if applicable, the subpoena required by subdivision (D) of this Rule.

(B) Reasonable Notice. The attendance of the examinee and the production of documents may not be required less than 7 days after actual delivery of the notice, or if the examination is to take place outside Florida less than 10 days after actual delivery of the notice, except by agreement of the parties or order of the court. However, an examination may be scheduled on shorter notice if the notice provides that the party to be examined need not file any objection to the short notice but must notify the examining party promptly of the inadequate notice and must offer a reasonable opportunity to be examined on another date. To the extent that a request for production of documents under this rule may be construed as a request under Bankruptcy Rule 7034, the time to respond is shortened to 7 days.

(C) Motion for Protective Order. An interested party may file, prior to the date of the proposed examination, a motion for protective order stating the reasons for prohibiting, limiting or rescheduling the examination, and the examination shall be stayed until the court rules on the motion.

(D) Subpoena. No subpoena shall be necessary to compel attendance of, or production of documents from, the debtor at an examination of the debtor, but a Local Form "Subpoena for Rule 2004 Examination" shall be necessary to compel the attendance of, or production of documents by, a witness other than the debtor.

✎ 2002 Amendment: Amended to incorporate reference to new Local Form "Subpoena for Rule 2004 Examination" to be served on non-debtors.

(E) Videotaped Examinations. Examinations may be videotaped. The notice or subpoena must indicate that the examination is to be videotaped and whether it will also be recorded stenographically.

[Comment: See also Bankruptcy Rules 7026-7037 and 9014 and Local Rules 7026-1 and 7027-1 (discovery in adversary proceedings and contested matters).]

Rule 2014-1. Employment of Professionals.

(A) Attorneys. Applications seeking approval to employ an attorney for a debtor in possession or trustee will be considered only upon submission of the Local Form "Debtor in Possession's Application for Employment of Attorney" or "Trustee's Application for Employment of Attorney" accompanied by the Local Forms "Affidavit of Proposed Attorney for Debtor in Possession/Trustee" and "Order Approving Employment of [Debtor in Possession's/Trustee's] Attorney".

(B) Auctioneers. Applications seeking approval to employ an auctioneer will be considered only upon submission of the Local Form “Application for Approval of Employment of Auctioneer” in accordance with Local Rule 6005-1.

[Comment: See also Bankruptcy Rule 2014(a)(all professionals’ applications shall be accompanied by a verified statement of disinterestedness), and Local Rules 2016-1 (compensation of professionals), 6005-1 (auctioneers), and 2090-1 and 9010-1 (attorneys).]

Rule 2015-1. Reports. The trustee or debtor in possession shall file financial reports of the estate according to the format and time schedule provided by the U.S. trustee, and shall serve a copy on the U.S. trustee. The reports shall contain a statement of all receipts and disbursements, and payments (including wage withholding, unemployment and social security taxes) to employees, and such other information as is required by the U.S. trustee.

[Comment: See also 11 U.S.C. § 704(8), § 1107(a), and § 1203, Bankruptcy Rule 2015 and Local Rule 2081-1 (chapter 11 debtor’s payroll and sales tax report).]

Rule 2016-1. Compensation for Services Rendered and Reimbursement of Expenses.

(A) General. Requests for compensation for professional services or reimbursement of expenses from the estate are governed by Bankruptcy Rule 2016 and this rule, except that applications for compensation by auctioneers are governed by Local Rule 6005-1. Subject to later review by the court and the U.S. trustee, chapter 7 trustees are authorized to pay, without prior approval of the court, those expenses as provided in and pursuant to the court’s “Guidelines for Reimbursement to Chapter 7 Trustees for Costs Without Prior Court Order”. Subdivision (B)(2) of this rule applies specifically to attorneys for debtors in chapter 13 cases and, if any provisions conflict, the provisions of that subdivision supercede any other provisions of this rule. Disclosure of compensation by the attorney for debtor shall conform to the Local Form “Disclosure of Compensation of Attorney for Debtor”.

✎ 2002 Amendment: Amended to incorporate reference to new Local Form “Disclosure of Compensation of Attorney for Debtor”.

(B) Requirements for Compensation.

- (1) Applications for Compensation for Professional Services or Reimbursement of Expenses other than by Attorneys for Chapter 13 Debtors.** Applications for compensation of attorneys (other than by attorneys for chapter 13 debtors), accountants and other professionals submitted pursuant to Bankruptcy Rule 2016 shall conform substantially to the court’s “Guidelines for Fee Applications for Professionals in the Southern District of Florida” and the local forms described in the Guidelines; provided,

however, that applications for cumulative compensation that do not exceed \$2,500 need not include a breakdown by categories of work performed. Applications for compensation by creditors' attorneys, other than under 11 U.S.C. § 503(b)(2), (3), and (4), are not governed by this subdivision but may be incorporated into the creditor's claim, request for payment of administrative expense, or motion to determine value of secured claim.

(2) Compensation for Professional Services or Reimbursement of Expenses By Attorney for Chapter 13 Debtor. Sanctions.

(a) General. Compensation for professional services or reimbursement of expenses by attorneys for chapter 13 debtors shall comply with the court's "Guidelines for Compensation for Professional Services or Reimbursement of Expenses by Attorney for Chapter 13 Debtor" ("Chapter 13 Fee Guidelines") and the local forms described in the "Chapter 13 Fee Guidelines".

(b) Sanctions. The failure of an attorney to timely file the plan or schedules, to attend § 341 meetings of creditors, to promptly and timely file amendments, or to appear at confirmation hearings or at any other scheduled meetings or hearings shall result in the reduction of the attorney's fee, for each such occurrence, in such amount as the court finds to be appropriate.

(C) Deadlines for Filing Applications in All Chapter Cases. Unless otherwise ordered by the court, the final application for compensation of any professional must be filed:

- (1)** in chapter 11 cases, not later than 20 days prior to the date of the confirmation hearing, though the applicant may supplement the application with additional supporting documentation under the Guidelines at or prior to the confirmation hearing, if the application included an estimate of the additional fees and costs necessary through confirmation.
- (2)** in chapter 7 cases converted or reconverted from chapter 11, 12, or 13 cases, for those services rendered and costs incurred during the superseded case, not later than 90 days after the post-conversion meeting of creditors in accordance with Bankruptcy Rule 3002(c).
- (3)** in chapter 12 cases, not later than 2 business days prior to the confirmation hearing.
- (4)** in chapter 13 cases where applications are required:
 - (a)** prior to confirmation, a local form fee application shall be filed and served on the debtor and the chapter 13 trustee no later than 10 days prior to the confirmation hearing and notice provided to all interested parties that the fee application will be

heard at the confirmation hearing.

- (b) subsequent to confirmation, a local form fee application for fees in conjunction with filing modifications to the plan after confirmation shall be filed and served on the debtor and the chapter 13 trustee no later than 10 days prior to the hearing on the modified plan and notice provided to all interested parties that the fee application will be heard with the motion to modify the confirmed plan. Any additional requests for compensation which exceed the amounts permitted under the “Chapter 13 Fee Guidelines” referenced in subdivision (B)(2)(a) of this rule shall require application and approval in accordance with the “Chapter 13 Fee Guidelines” and shall comply with the notice and hearing requirements of Local Rule 9073-1.
- (c) upon dismissal or conversion of a case prior to confirmation of a plan, a local form fee application shall be filed and served on the debtor and the chapter 13 trustee by an attorney seeking compensation in excess of the amounts set forth in paragraph (A)(1) of the “Chapter 13 Fee Guidelines”. The application must be filed and served no later than 10 days after entry of the order of dismissal or conversion and the applicant shall comply with the notice and hearing requirements of Local Rule 9073-1.

(D) Bankruptcy Petition Preparers Disclosure of Compensation. Bankruptcy petition preparers must submit fee disclosure information pursuant to 11 U.S.C. § 110(h) in a format conforming to Local Form “Disclosure of Compensation of Bankruptcy Petition Preparer”.

 2002 Amendment: Subdivision (D) added to set forth new local form requirement.

[Comment: See also Bankruptcy Rule 2002(c)(2) (notice of fee applications) and Local Rules 1019-1(F) (deadline for filing postpetition claims), 2002-1(C)(9) (service of fee application), 7054-1(F) (motion for fees and costs in adversary proceeding), 8014-1(F) (motion for fees and costs in appeals), 9013-1(C)(3) (ex parte motions to approve employment) and 9013-1(D)(4)(c)(iii) (hearing required).]

Rule 2081-1. Chapter 11 - General.


(A) Required Payroll and Sales Tax Reports.

- (1) **Content of Reports.** Chapter 11 debtors (other than individuals not engaged in business) shall file a Local Form “Debtor’s Notice of Filing Payroll and Sales Tax Reports” certifying the amount of payroll and sales tax payments made and those that remain unpaid for the six months preceding the bankruptcy filing (the “Filing Date”).

The debtor shall attach to the certified report proof of all payments made for payroll and sales taxes for the 6 months preceding the Filing Date. The reports shall certify the following:

- (a) the total amount of payroll taxes which accrued during the 6 months preceding the Filing Date; the date(s), amount(s) and place of payment of the payroll taxes for the 6 months preceding the Filing Date; and, the total amount of payroll taxes still due and owing, if any, as of the Filing Date, whether owed for the period 6 months prior to the Filing Date or from any earlier period, and
 - (b) the total amount of all gross sales subject to sales tax for the 6 months preceding the Filing Date; the date(s) and amount(s) of payment of sales tax for the 6 months preceding the bankruptcy filing; and, the total amount of sales tax still due and owing, if any, as of the Filing Date, whether owed for the period 6 months prior to the Filing Date or from any earlier period.
- (2) **Deadline for Filing.** The report and attachments required by this rule shall be filed within 15 days from the date of filing of the chapter 11 petition, entry of an order for relief under chapter 11 in an involuntary case, entry of an order reinstating the case or entry of an order converting the case to chapter 11.
- (3) **Required Service.** A copy of the certified report shall be served upon the United States trustee, the Internal Revenue Service, the Florida Department of Revenue and any other taxing authority named in the report and the report shall include a certificate verifying service on these parties.

[Comment: See also Local Rule 2015-1 (reports).]

 2002 Amendment: Amended to incorporate the provisions AO 00-3.

(B) [Note: 2081-1(B) is a reserved rule number]

Rule 2083-1. Chapter 13 - General.

(A) Required Supplemental Financial Information.

- (1) **Information Required for Internal Revenue Service.** At the meeting of creditors, the debtor shall bring for the representative appearing on behalf of the Internal Revenue Service, copies of the debtor's tax returns (including applicable schedules and W-2 forms) for the 3 years preceding the filing, conversion or reinstatement of the debtor's case. Both husband and wife must re-sign the copies of the joint returns with original signatures even if only one spouse is a debtor. No notice or certificate of service of these

items shall be filed with the court and no written proof of service is required.

- (2) **Information Required for Chapter 13 Trustee.** Contemporaneously with the filing of a chapter 13 plan and pursuant to Local Rule 3015-1(B)(2), the debtor shall serve on the chapter 13 trustee evidence of debtor's income, including copies of the debtor's tax return for the year preceding the filing of the petition and the last 3 pay stubs received prior to the filing of the petition. These documents shall not be filed with the court.

☞ 2002 Amendment: Amended to incorporate the provisions AO 99-2 and 00-2.

(B) Required Review of Claims by Attorney for Debtor.

- (1) **Scope of Review Required.** Not later than 20 days after expiration of the claims bar date, the attorney for the debtor shall examine, from records maintained by the clerk, the claims register and copies of all claims filed in the case to determine whether additional action is necessary, including the filing and service in accordance with all applicable rules of:
 - (a) an amended plan if the plan has not been confirmed;
 - (b) a motion to modify the confirmed plan; or
 - (c) objections to nonconforming claims.
- (2) **Attorney for Debtor's Notice of Compliance with Claims Review Requirement.** A Local Form "Notice of Compliance by Attorney for Debtor With Local Rule 2083-1(B) Claims Review Requirement" certifying that the review required by subdivision (B)(1) of this rule has been completed shall be filed with the court and served on the trustee and the debtor.
- (3) **Failure to Comply.** If the provisions of this rule are not complied with, the trustee may serve upon the attorney for the debtor (with a copy also served on the debtor), a "Trustee's Notice to Attorney for Debtor of Deficiency" which shall provide a 20 day deadline from the date of the notice for the attorney for the debtor to comply. If the deficiency is not cured, the trustee shall file a "Trustee's Report of Non-Compliance with Claims Review Requirement" and the court may dismiss the case without further notice or hearing.
- (4) **Pro Se Debtors.** The provisions of this rule do not apply to debtors not represented by an attorney.

✎ 2002 Amendment: Amended to set forth new requirements, including local form certification, applicable to chapter 13 attorneys for debtors regarding claims review.

Rule 2090-1. Attorneys.

(A) Qualifications to Practice. Except as provided in subdivision (B) of this rule, to be qualified to practice in this court an attorney must:

- (1) be a member of the Bar of the United States District Court for the Southern District of Florida under the Special Rules Governing the Admission and Practice of Attorneys in the District Court;
- (2) read and remain familiar with these rules, administrative orders, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, The Florida Bar's Rules of Professional Conduct, and the Bankruptcy Code; and
- (3) earn at least 12 credit hours from The Florida Bar for attending or participating in CLE courses related to the subject area of "Bankruptcy Law" during each attorney's Florida Bar three-year CLE reporting requirement. This provision will not preclude an attorney from appearing who is within a three-year CLE reporting period but has not yet earned the required 12 credit hours for that period.

Attorneys appearing pursuant to this subdivision must include on all papers the certification contained in Local Rule 9011-4(B).

✎ 2002 Amendment: Amended to include reference to administrative orders in subdivision (A)(2).

(B) Appearances Permitted as Exceptions to Qualification Requirements. An attorney who has not fulfilled the qualifications to practice set forth in subdivision (A) above may only appear as set forth in this subdivision. Any attorney who appears pursuant to this rule shall be deemed to be familiar with, and shall be governed by, these rules, and the Rules of Professional Conduct and other ethical limitations or requirements governing the professional behavior of members of The Florida Bar.

- (1) **Appearances in Limited Instances.** An attorney may appear in the following limited instances without resort to the requirements contained in subdivision (A) or (B)(2) of this rule: (a) the preparation and filing of a notice of appearance (pursuant to Bankruptcy

- Rule 9010); (b) a request for service of notices (pursuant to Bankruptcy Rule 2002); (c) the preparation and filing of a proofs of claim in chapter 7, 11, 12 or 13 cases or ballots in chapter 11 cases; (d) attendance and inquiry at meetings of creditors held under 11 U.S.C. § 341; and (e) attendance and representation of a creditor at a hearing which has been noticed to all creditors generally, except for representation of a party in a contested matter governed by Bankruptcy Rule 9014 or an adversary proceeding governed by Part VII of the Bankruptcy Rules.
- (2) **Pro Hac Vice Appearances.** Any attorney who is a member in good standing of the bar of any state or territory or insular possession of the United States, but is not admitted to practice in the United States District Court for the Southern District of Florida and qualified to practice before this court may, upon the filing and this court's approval of the Local Form "Motion to Appear Pro Hac Vice" and proposed Local Form "Order Admitting Attorney Pro Hac Vice", be permitted to appear and participate in a particular case or proceeding. The motion shall designate an attorney who is qualified to practice in this court and who maintains an office in this district for the practice of law with whom the court and opposing counsel may readily communicate regarding the conduct of the case or proceeding and upon whom papers shall be served. The motion must be accompanied by a written statement of the local attorney who consented to the designation, and the name, address and telephone number of the named designee. The motion shall (a) indicate all bars or courts to which the attorney is admitted; (b) indicate all bars or courts, if any, from which the visiting attorney has been disbarred, suspended or prohibited from appearing in front of and the dates of the foregoing; and (c) certify that the visiting attorney is familiar with and shall be governed by these rules, the Rules of Professional Conduct and all other requirements governing the professional behavior of members of The Florida Bar. Visiting attorneys appearing under this subdivision shall include on all papers filed with the court the certification contained in Local Rule 9011-4(B)(2). Upon written motion and for good cause shown, the court may waive or modify the requirements of designation of qualified local counsel.
- (3) **Appearances by Government Attorneys.** Any attorney who is an employee of the United States government, an agency thereof, or a state, municipality or agency or political subdivision thereof, may appear and participate in particular actions or proceedings before the court on behalf of such entity in the attorney's official capacity. Any attorney so appearing is subject to all of the rules of this court.


Rule 2090-2. Attorney Discipline.

- (A) **Contempt of Court.** Nothing in this rule shall be construed as providing an exclusive procedure for the discipline of attorneys appearing before the court in appropriate cases, nor as a limitation upon the power of the court to punish for contempt in appropriate cases.

(B) Disciplinary Action.

- (1) Upon order to show cause entered by at least one judge, any attorney appearing before the court may, after 30 days' notice and hearing and for good cause shown, be suspended from practice before the court, reprimanded or otherwise disciplined, by a majority vote of the judges of the court sitting *en banc*, excepting the judge whose order to show cause initiated the disciplinary proceedings.
- (2) Whenever it appears to the court that any attorney appearing before the court has been (a) disbarred or suspended from practice by the Supreme Court of Florida, (b) disbarred or suspended, for moral turpitude or ethical violations, by the highest court in any state or by any federal court, or (c) convicted of a felony in any court, such disbarment, suspension or conviction shall, 20 days afterwards, operate as an automatic suspension of the attorney's right to practice in this court. The attorney may file, within such twenty-day period, a petition seeking relief from the operation of this subdivision, and if a timely petition is filed, suspension shall be stayed until the petition is heard and determined by a majority vote of the judges of this court.

(C) Peer Review and Grievance Committee. Any of the judges of this court may chose to refer an attorney to the committee established pursuant to the district court's "Special Rules Governing the Admission and Practice of Attorneys" for proceedings by this committee and by the district court under those rules, which are adopted into these rules by reference for the purpose of such referrals.

 2002 Amendment: Subdivision (C) updated in conjunction with amendments to District Court Local Rules.

(D) Professional Conduct. The professional conduct of attorneys appearing before this court shall be governed by the Model Rules of Professional Conduct of the American Bar Association as modified and adopted by the Supreme Court of Florida to govern the professional behavior of the members of The Florida Bar.

(E) Courtroom Decorum. The courtroom conduct of all counsel, including—where the context applies—all persons at counsel table, shall be governed by the guidelines set forth in the court's "Guidelines for Courtroom Decorum".

(F) Waiver in Exceptional Cases. In an exceptional case, when the interest of justice is best served, the judge before whom the matter is pending may waive the requirements of these rules.

[Comment: See also Bankruptcy Rules 2014 (employment of professionals), 2016 (compensation of professionals) and 9011 (effect of attorney's signature), and Local Rules 2014-1, 2016-1, and 9011-4(A) (attorney's signature block).]

Rule 2091-1. Attorneys - Withdrawals. No appearance by an attorney may be withdrawn in any case or proceeding except by leave of court after notice served on the client and parties in interest entitled to notice; provided, however, that counsel for a creditor not a party to any pending contested matter or adversary proceeding may withdraw his or her appearance without court order by filing a notice of withdrawal as counsel, stating the name and mailing address of the client, and serving copies of the notice on the client, the debtor, the trustee, and their counsel.


[Comment: See also Local Rules 2002-1(J) (attorney change of address) and 2002-1(K) (“Master Service List” in chapter 11 cases).]

Rule 3001-1. Proof of Claim.

(A) Form.

- (1) Generally.** A proof of claim shall conform to the requirements of Bankruptcy Rule 3001(a) and Local Rule 9004-1 and the Local Form “Proof of Claim”, and must be signed by the claimant or the claimant’s agent.
- (2) Computer-Coded Forms.** A proof of claim form served on a creditor by the clerk which contains the name of the creditor and includes a bar code is intended for use by that creditor only.
- (3) Attachments.** A proof of claim, including a proof based on a writing and filed pursuant to Bankruptcy Rule 3001(c), should not include more than 5 pages of attachments; however, the proof of claim must include a list or summary of any invoices or other omitted attachments that would have been included but for this page limitation. No original papers shall be attached. Interested parties requiring copies of the entire instrument upon which liability is based for claims filed pursuant to Bankruptcy Rule 3001(c) shall submit a request directly to the claimant who, without further order of the court, shall provide copies to the requesting party.

[Comment: See Local Rules 5005-1(B)(3) (place of filing), 5005-3 (size limitation of papers, including attachments), and 5005-4 (electronic filing not permitted).]

 **2002 Amendment:** Amended to eliminate the requirement that copies of written instruments upon which liability is based be filed with the claim. Instead, copies are to be provided to an interested party upon request without requiring court involvement.

(B) Administrative Claims. Unless accompanied by a request for payment of an administrative expense, any claim filed on an official or Local Form “Proof of Claim” alleging a § 503 administrative claim shall not be set for hearing, and instead shall be docketed on the claims register

pursuant to Local Rule 3002-1(A). Requests for payment of administrative expenses shall comply with the requirements of Local Rules 1019-1(F), 2016-1(C)(2), 9013-1, 9013-3, and 9073-1.

✎ 2002 Amendment: Amended to include cite to amended Local Rule 1019-1(F) and existing Local Rule 2016-1(C)(2) which establishes a deadline for filing administrative claims.

(C) Transferred Claim.

- (1) Submission Requirements.** Any assignment or other evidence of a transfer of claim filed after a proof of claim has been filed shall include the claim number of the claim to be transferred and must be accompanied by a copy of the proof of claim (excluding exhibits). In chapter 11 cases, any assignment or other evidence of a transfer of claim filed where no proof of claim has been filed shall include reference to the scheduled claim, including classification and amount.
- (2) Order Not Required.** Absent any timely filed objection to the notice of transfer served by the clerk, the claim shall be, without any further order of the court, noted as transferred on the records of the court.
- (3) Notice Not Required.** Where evidence of full or partial transfer of a claim is filed which contains the signatures of both the transferor and transferee and such evidence of transfer is filed pursuant to Bankruptcy Rule 3001(e)(4) and in accordance with the Local Rules, the clerk shall not provide notice of the filing of evidence of the transfer and no objection deadline shall be established. The transferor shall be deemed to have waived any objections to the transfer and the claim shall be noted as transferred in the records of the court.

✎ 2002 Amendment: Amended to incorporate the provisions AO 99-6.

Rule 3002-1. Filing Proof of Claim or Interest in Chapter 7, 12, or 13 Cases.

(A) Chapter 7 No-Asset Cases. Claims Deadline in Cases Converted from Chapter 13 to Chapter 7. The clerk shall not docket any claim filed in a chapter 7 case designated in the § 341 meeting notice as a no-asset case unless the trustee files a “Notice of Assets”. Upon the filing of a “Notice of Assets”, a deadline for filing claims shall be established as provided by Bankruptcy Rule 3002(c)(5) and noticed pursuant to Local Rule 2002-1(C)(7). Claims deadlines in chapter 13 cases converted to chapter 7 cases shall be established as provided by Bankruptcy Rule 3002(c)(5) and Local Rule 1019-1(E).

(B) Modification of Claims Deadline. The deadline in Bankruptcy Rule 3002(c) for filing a proof of claim in a chapter 7, 12 or 13 case is modified in the following circumstances for non-governmental unit claimants:

[Comment: See 11 U.S.C. § 502(b)(9) (claims deadline for governmental units).]

- (1) Meeting of Creditors Untimely Noticed.** If service of the § 341 or post-conversion meeting notice is not timely provided pursuant to Bankruptcy Rule 2002(a) and as a result of this failure to provide notice the § 341 meeting must be rescheduled before another notice can be served, the deadline for filing proofs of claim or interest shall be 90 days after the rescheduled date of the § 341 meeting.
- (2) Case Dismissed and Reinstated.** If a case is dismissed prior to the expiration of the claims deadline and subsequently reinstated:
 - (a)** in a case dismissed before the § 341 meeting is held, the new deadline for filing proofs of claim or interest shall be 90 days after the rescheduled § 341 meeting.
 - (b)** in a case dismissed after the § 341 meeting is held, the new deadline for filing proofs of claim or interest shall be 90 days from execution of the order vacating the order of dismissal. Local Form “Order Vacating Dismissal and Reinstating Case” is required for any reinstated chapter 13 case. Any other proposed order reinstating a case submitted for consideration by the court in chapter 7 or chapter 12 cases must contain the new deadlines prescribed by this rule for reinstated cases. The clerk shall provide notice of the new deadline.

(C) Deadline for Claims Arising from Rejection of Contracts or Leases. Unless otherwise ordered by the court, proofs of claims arising pursuant to 11 U.S.C. § 502(g) from the rejection of an executory contract or unexpired lease must be filed not later than 30 days after the later of (1) the entry of the order compelling or approving the rejection of the contract or lease, or (2) the effective date of the rejection of the contract or lease, if the order contains the notice mandated by Local Rule 6006-1.

[Comment: See Bankruptcy Rule 3002(c)(4) (deadline for claims arising from rejection).]

(D) Deadline for Filing Claims in Chapter 7 Cases Reopened to Administer Assets. Upon the filing by a trustee of a “Notice of Assets” in a reopened chapter 7 case:

- (1)** if no claims deadline was established in the original case or if a claims deadline was established and rendered moot by the filing of a “Report of No Distribution” by the trustee in the original case, the court shall set a deadline of 90 days for the filing of claims. For governmental units, the deadline shall be this deadline or 180 days after

relief was ordered in the original chapter 7 case, whichever is later. Any claims filed during the pendency of the original case shall be deemed filed in the reopened case.

- (2) if a claims deadline established in the original case expired prior to the filing of a “Report of No Distribution” by the trustee or if a distribution was made to creditors by the trustee subsequent to the expiration of a claims deadline in the original case, no additional claims deadline shall be established. Creditors considered for distributions shall be those creditors who filed claims in the original case.

(E) Service of Proofs of Claim in Chapter 13 Cases. In a chapter 13 case, the party filing a proof of claim shall serve copies of the claim, including all attachments required pursuant to Local Rule 3001-1(A)(3), upon the debtor, the attorney for debtor and the chapter 13 trustee.

[Comment: See Local Rules 1019-1(F) (deadline for filing postpetition claim in reconverted case) and 2083-1(B) (additional review of claims and service of copies by attorney for chapter 13 debtor required).]

Rule 3003-1. Filing Proof of Claim or Interest in Chapter 11 Cases.

(A) Deadline. Unless otherwise ordered by the court and except as provided by 11 U.S.C. § 502(b)(9), the deadline for filing proofs of claims or interests required by Bankruptcy Rule 3003(c)(2) shall be 90 days after the date first scheduled for the § 341 meeting of creditors. Notice of this deadline shall be provided pursuant to Bankruptcy Rules 2002(a)(7) and 2002(f)(3) and Local Rule 2002-1(C)(1) in the § 341 or post-conversion meeting notice.

[Comment: See 11 U.S.C. 502(b)(9) (claims deadline for governmental units).]

(B) Modification of Claims Deadline. The deadline set pursuant to subdivision (A) of this rule or by order of the court for filing proofs of claims or interests in chapter 11 cases is modified in the following instances for nongovernmental unit claimants:

- (1) **Meeting of Creditors Untimely Noticed.** If service of the § 341 or post-conversion meeting notice is not timely provided pursuant to Bankruptcy Rule 2002(a) and Local Rule 2002-1(C)(1) and as a result of this failure to provide notice the § 341 meeting must be rescheduled before another notice can be served, the deadline for filing proofs of claim or interest shall be 90 days after the rescheduled date of the § 341 meeting.
- (2) **Case Dismissed and Reinstated.** If a chapter 11 case is dismissed prior to the expiration of the claims deadline and subsequently reinstated:
 - (a) in a case dismissed before the § 341 meeting is held, the new deadline for filing proofs of claim or interest shall be 90 days after the rescheduled § 341 meeting.

- (b) in a case dismissed after the § 341 meeting is held, the new deadline for filing proofs of claim or interest shall be 90 days from execution of the order vacating the order of dismissal.

Any other proposed order reinstating a case submitted for consideration by the court in chapter 11 cases must contain the new deadlines prescribed by this rule for reinstated cases. The clerk shall provide notice of the new deadline.

(C) Deadline for Claims Arising from Rejection of Contracts or Leases. Unless otherwise ordered by the court, proofs of claims arising pursuant to 11 U.S.C. § 502(g) from the rejection of an executory contract or unexpired lease must be filed not later than 30 days after the later of (1) the entry of the order compelling or approving the rejection of the contract or lease, or (2) the effective date of the rejection of the contract or lease, if the order contains the notice mandated by Local Rule 6006-1.

[Comment: See Local Rule 6006-1 (deadline notice to be included in orders rejecting executory contracts).]

Rule 3007-1. Objections to Claims.

(A) Service. A party filing an objection to claim shall serve a copy of the objection on (1) the claimant at the claimant's address of record or, if the claim has been transferred, at the transferee's address of record, and on (2) any attorney of record for the claim holder. If the claim holder is the United States, service shall also be made as prescribed by Bankruptcy Rule 7004(b)(4). In a chapter 13 case, the objection shall be served on the chapter 13 trustee.

[Comment: See Local Rule 3001-1(C) (transferred claim).]

✎ 2002 Amendment: Amended to incorporate the provisions AO 99-4.


(B) Deadline for Filing Objections.

- (1) **Chapter 11 Cases.** In a chapter 11 case, objections to claims must be filed not later than the deadline set in the Local Form "Order (I) Approving Disclosure Statement; (II) Setting Hearing on Confirmation of Plan; (III) Setting Various Deadlines; and (IV) Describing Plan Proponent's Obligations" or in the "Order Conditionally Approving Disclosure Statement, etc." for service of a plan, disclosure statement and ballots, except as otherwise ordered by the court.

[Comment: Unless otherwise ordered, the deadline for filing objections to claims in chapter 11

cases will be set the same as the deadline for serving the plan, which is 40 days before the date set for the confirmation hearing.]

- (2) **Chapter 13 Cases - Preconfirmation Objections.** Objections to claims in chapter 13 cases which are filed and served on the claimant, the debtor and the chapter 13 trustee at least 14 days prior to the confirmation hearing shall be designated as “timely pre-confirmation objections”. “Timely pre-confirmation objections” shall be heard at the confirmation hearing and the provisions of subdivisions (C) and (D) of this rule, including the 30 day notice requirement, shall not apply. Objections filed pursuant to this rule must conform substantially to the Local Form “Objection to Claim and Notice of Hearing On Shortened Notice On Objection to Claim” and must identify the claim and state the basis for the objection and indicate the requested disposition. Objections to claims filed less than 14 days before the confirmation hearing or filed after a plan is confirmed shall require at least 30 days notice and be filed in accordance with the provisions of subdivisions (A), (C), (D) and (E) of this rule.

 2002 Amendment: Amended to incorporate the provisions AO 99-4.

(C) **Content of Objections.** Objections to claims, other than those filed pursuant to subdivision (B)(2) of this rule, must conform substantially to the Local Form “Objection to Claims”, and shall:

- (1) describe the claim by claim number, name of record holder, and amount claimed;
- (2) state with particularity the basis for the objection;
- (3) if the relief requested is other than the disallowance of the claim, state the amount, and priority if any, in which the claim should be allowed;
- (4) include above the preamble on the first page of the objection the following bulletin in print either highlighted or bold so as to make it more prominent than any other typed text:

**IMPORTANT NOTICE TO CREDITORS:
THIS IS AN OBJECTION TO YOUR CLAIM**

This objection seeks either to disallow or reduce the amount or change the priority status of the claim filed by you or on your behalf. Please read this objection carefully to identify which claim is objected to and what disposition of your claim is recommended.

If you disagree with the objection or the recommended treatment, you must file a

written response WITHIN 30 DAYS from the date of service stated in this objection, explaining why your claim should be allowed as presently filed, and you must mail a copy to the undersigned [attorney][trustee], OR YOUR CLAIM MAY BE DISPOSED OF IN ACCORDANCE WITH THE RECOMMENDATION IN THIS OBJECTION.

If your entire claim is objected to and this is a chapter 11 case, you will not have the right to vote to accept or reject any proposed plan of reorganization until the objection is resolved, unless you request an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing your claim for voting purposes.

Any written response must be filed with the Clerk of the United States Bankruptcy Court, [divisional address], and must contain the case name and case number.

and

- (5) incorporate a certificate of service.

(D) Relief Without Hearing; Hearings.

- (1) If no written response contesting the objection is filed within 30 days after the date of service, the failure to respond shall be deemed a consent by the affected claimant and the court may grant the relief requested by the objecting party without hearing.
- (2) It shall be the responsibility of the objecting party, after the claimant's time to respond has expired, to submit, as appropriate, either or both:
 - (a) the Local Form "Certificate of Contested Matter" accompanied by the Local Form "Notice of Hearing" pursuant to Local Rule 9073-1(A) regarding claimants who contested the objection;
 - (b) the Local Form "Certificate of No Response or Settlement" and proposed order granting the requested relief regarding claimants who did not contest the objection or agreed to a settlement.

(E) Orders. Proposed orders on objections to claims shall recite in the body:

- (1) the claim holder's name and claim number;
- (2) whether the objection to the claim is sustained or overruled;
- (3) whether the claim is allowed or disallowed; and

- (4) the allowed amount and priority, if any, of the allowed claim.

Orders sustaining objections to claims shall conform to the Local Form “Order Sustaining Objection to Claims”.

Rule 3009-1. Deadline for Objection to Report of Estate. Any objections to the final report or applications for compensation listed in the “Notice of Filing of Trustee’s Final Report of Estate and Proposed Dividend and Applications for Compensation” shall be filed not later than 20 days after the service of the notice.

[Comment: No notice of the trustee’s final report will be provided to creditors if the net proceeds realized do not exceed the amount set forth in Bankruptcy Rule 2002(f)(8) and if no application for compensation or reimbursement of expenses totals in excess of the amount set forth in Bankruptcy Rule 2002(a)(6). See also Bankruptcy Rules 2016(a) (copy of fee applications to be served on U.S. trustee) and 9034(k) (U.S. trustee’s authority to require notice) and Local Rules 1019-1(F) (deadline for filing postpetition claims), 2002-1(C)(10) (when notice of final accounts and notice of final fee applications required) and 2016-1(C) (deadline for fee applications).]

Rule 3010-1. Deposit of Small Dividends. The trustee shall pay over to the court any funds left undistributed pursuant to Bankruptcy Rule 3010, accompanied by the Local Form “Notice of Deposit of Funds with the U.S. Bankruptcy Clerk”.

Rule 3011-1. Unclaimed Funds.

(A) Deposit by Chapter 7, 12, or 13 Trustee. The chapter 7, 12, or 13 trustee shall pay over to the court any funds left undistributed pursuant to Bankruptcy Rule 3011, accompanied by the Local Form “Notice of Deposit of Funds with the U.S. Bankruptcy Clerk”.

[Comment: See also 11 U.S.C. § 347(a) (deposit of unclaimed funds after final distribution).]

(B) Deposit by Disbursing Agent Under Chapter 11 Liquidating Plan. The disbursing agent under a chapter 11 plan which provides for the complete liquidation of the property of the debtor shall pay over to the court any funds left undistributed 90 days after the final distribution under the plan, accompanied by the Local Form “Notice of Deposit of Funds with the U.S. Bankruptcy Clerk”.

[Comment: Compare 11 U.S.C. § 347(b) (return of unclaimed funds to debtor in reorganization cases).]

(C) Withdrawal of Unclaimed Funds. The court shall consider a request for withdrawal of unclaimed funds only upon application submitted on the Local Form “Application to Withdraw Unclaimed Funds”, with attachments.

[Comment: See also Local Rules 1017-2(F) and 1019-1(D) (disposition of unclaimed funds if case is dismissed or converted) and “Clerk’s Instructions for Deposits Into and Withdrawal From Unclaimed Funds”.]

Rule 3012-1. Valuation of Collateral. Motions to value collateral pursuant to Bankruptcy Rule 3012 shall be served on the affected creditors in accordance with Bankruptcy Rule 7004. In a chapter 13 case, valuation of secured property shall also be in accordance with Local Rule 3015-3(A).

✎ 2002 Amendment: Sets forth service requirement for all cases and references new local rules setting forth procedure for valuation of collateral in chapter 13 plan.

Rule 3015-1. Chapter 12 and Chapter 13 Plans.

(A) Chapter 12 Case.

- (1) **Filing of Plan.** A proposed order which substantially conforms to the Local Form “Order (I) Setting Hearing on Confirmation of Plan;(II) Setting Deadline for Filing Objections to Confirmation; (III) Setting Hearing on Fee Applications; and (IV) Directing Debtor To Serve Notice” must accompany the filing of the plan in a chapter 12 case.
- (2) **Notice.** The debtor shall serve the plan, and the “Order Setting Hearing, etc.” in accordance with the provisions of the order.
- (3) **Objections to Confirmation.** Objections to confirmation of the plan must be filed at least 3 days prior to the confirmation hearing.

[Comment: See Local Rule 2002-1(C)(11) (service of order confirming plan).]

(B) Chapter 13 Case.

- (1) **Form.** A chapter 13 plan must conform to the Local Form “Chapter 13 Plan”. If the plan indicates that the paper is a plan summary, all supplemental papers regarding the plan shall be attached to the original plan when filed.
- (2) **Service of Plan on Trustee. Additional Documents to be Served.** The debtor shall serve the plan and supplemental papers on the trustee at the time the plan is filed. Contemporaneously with the filing of a chapter 13 plan, the debtor shall serve on the chapter 13 trustee the documents required pursuant to Local Rule 2083-1(A)(2). Except

for the service on the trustee, copies of the Local Form “Chapter 13 Plan” shall be served as provided by Local Rule 2002-1(C)(5).

[Comment: See also Local Rules 2083-1 (required supplemental financial information), 3012-1 and 3015-3(A) (valuation of collateral), 3070-1 (plan payments must commence to the chapter 13 trustee not later than 30 days after filing the petition).]

✎ 2002 Amendment: Amended to incorporate the provisions AO 99-2 and 00-2 and references new rules on valuation of collateral.

Rule 3015-2. Amendments to Chapter 13 Plans.

(A) Deadline for Filing Amended Plans. An amended plan must be filed and served as required by these rules at least 10 days prior to the confirmation hearing in order to be considered.

[Comment: See also Local Rules 5005-1(F)(1) and (F)(3) (Two-day submission requirement on response to motions and emergency filing procedures do not apply) and Local Rule 9013-1(D)(4)(c)(ix) (Chapter 13 plan may not be amended on negative notice).]

(B) Notice. The debtor shall serve the amended plan and supplemental papers on the trustee at the time the amended plan is filed. Except for the service on the trustee, copies of the amended plan shall be served as provided by Local Rule 2002-1(C)(5).

Rule 3015-3. Chapter 13 Confirmation.**(A) Valuation of Collateral Securing Claims.**

- (1) Valuation of Collateral.** A chapter 13 debtor seeking to value collateral securing a claim in a chapter 13 plan pursuant to 11 U.S.C. § 506(a) and Bankruptcy Rule 3012 must file the Local Form “Motion to Value Collateral in Plan and Notice of Hearing”. The debtor must serve the motion, the chapter 13 plan and the notice of the § 341 meeting on the affected creditor(s) in accordance with Bankruptcy Rule 7004 and at least 20 days prior to the date of the confirmation hearing.
- (2) Objections to Debtor’s Declared Valuation.** Any oral or written objections to the valuation of collateral contained in a chapter 13 plan and in a motion to value collateral must be raised at or before the confirmation hearing. If no oral or written objections to the proposed valuation are raised at or before the confirmation hearing, the valuation specified in the plan will be binding upon the affected secured creditor.

- (3) Hearing on Objections to Valuation.** Oral or written objections to the debtor’s proposed valuation pursuant to 11 U.S.C. § 506(a) shall be heard at the confirmation hearing as originally scheduled in the “Notice of Chapter 13 Case”.

✎ 2002 Amendment: Amended to set forth a procedure in chapter 13 cases for valuation of collateral. These amendments modified the provisions that were contained in AO 99-2, paragraphs 4 and 5 regarding valuation of collateral to provide that objections to valuation indicated in a plan be filed at or before the confirmation hearing. In addition, this rule requires that a new Local Form “Motion to Value Collateral in Plan and Notice of Hearing” be served on the affected creditors in accordance with Bankruptcy Rule 7004.

(B) Confirmation of Plan.

- (1) Objections to Confirmation.** Except for objections to confirmation based on valuation of collateral in the plan, objections to confirmation of the plan must be raised at or before the § 341 meeting, and any written objection must be filed and served on the standing chapter 13 trustee at or before the meeting, or the objection is deemed waived.
- (2) Confirmation Process.** The court may, by administrative order, establish procedures for confirmation of chapter 13 plans.
- (3) Order Confirming Plan.** Upon confirmation of a chapter 13 plan, the applicable local form chapter 13 plan confirmation order shall be served pursuant to Local Rule 2002-1(C)(11).

[Comment: See also Local Rules 6006-1(B) (confirmation order shall contain language regarding status of executory contracts or unexpired leases of chapter 13 debtors.), 6007-1(B)(2) (notice of abandonment of property by the chapter 13 trustee will be provided in the confirmation order).]

✎ 2002 Amendment: Amended to include provision that the court may, by Administrative Order, utilize alternate confirmation processes in chapter 13 cases.

Rule 3016-1 [Note: 3016-1 is a reserved rule number]

Rule 3016-2. Filing of Plan and Disclosure Statement in Standard Chapter 11 Cases.

- (A) Order Setting Disclosure Hearing.** In all standard (non-small business) chapter 11 cases,

the Local Form “Order (I) Setting Hearing to Consider Approval of Disclosure Statement; (II) Setting Deadline for Filing Objections to Disclosure Statement; and (III) Directing Plan Proponent to Serve Notice” must be submitted to the court with any chapter 11 plan and disclosure statement.

(B) Order Setting Confirmation Hearing. A proposed order conforming to the Local Form “Order (I) Approving Disclosure Statement; (II) Setting Hearing on Confirmation of Plan; (III) Setting Hearing on Fee Applications; (IV) Setting Various Deadlines; and (V) Describing Plan Proponent’s Obligations” must be submitted to the court by the plan proponent at the disclosure hearing, upon approval of the disclosure statement.

[Comment: See also “Guidelines for Preparing Orders” (blanks for deadlines in form order shall be left blank).]

Rule 3017-1. Disclosure Statement and Confirmation Hearing - Standard Chapter 11 Cases. The provisions in this subdivision apply to any chapter 11 plan and disclosure statement filed by any plan proponent other than a debtor that has elected to be considered a small business debtor pursuant to Bankruptcy Rule 1020 and Local Rule 1020-1.

[Comment: See also Bankruptcy Rules 3017(a) and (f) (Service of plan and disclosure statement on other parties required).]

(A) Deadline for Objecting to Disclosure Statement. Objections to a disclosure statement must be filed, and a copy delivered to the plan proponent, at least 5 business days before the hearing on approval of the disclosure statement. The objecting party shall confer with the plan proponent at least 3 business days before the hearing in an effort to resolve any objections to the disclosure statement. The objection shall include a request for dismissal or conversion of the case, if the objecting party will be seeking that relief at the disclosure hearing.

(B) Service of Plan, Disclosure Statement, Ballot, and Notice; Deadline for Service.

- (1)** At least 30 days before the date set for the hearing on approval of the disclosure statement, the plan proponent shall serve the Local Form “Order (I) Setting Hearing to Consider Approval of Disclosure Statement; (II) Setting Deadline for Filing Objections to Disclosure Statement; and (III) Directing Plan Proponent to Serve Notice” on the parties required by Bankruptcy Rules 2002(b), 2002(d), and 2002(j), and on the U.S. trustee, and shall serve the plan and disclosure statement as required by Bankruptcy Rule 3017(a) and (f).
- (2)** After court approval of the disclosure statement and at least 40 days before the date set for the confirmation hearing, or as otherwise directed by the court, the plan proponent shall serve the Local Form “Order (I) Approving Disclosure Statement; (II) Setting Hearing on Confirmation of Plan; (III) Setting Hearing on Fee Applications; (IV) Setting

Various Deadlines; and (V) Describing Plan Proponent's Obligations" together with the plan and disclosure statement, on the parties required by Bankruptcy Rule 3017(d) and shall serve a ballot in the form required by Local Rule 3018-1 on all creditors and equity security holders entitled to vote on the plan.

✎ 2002 Amendment: Subdivision (B)(1) amended to reference Bankruptcy Rule 3017(f).

Rule 3017-2. Disclosure Statement Approval and Confirmation Hearing - Small Business Cases.

(A) Conditional Approval of Disclosure Statement. A plan proponent in a case in which a chapter 11 debtor properly has elected to be considered a small business pursuant to Bankruptcy Rule 1020 and Local Rule 1020-1 may seek conditional approval of a disclosure statement by filing a motion for conditional approval of disclosure statement, accompanied by the Local Form "Order Conditionally Approving Disclosure Statement and Setting Hearing on Final Approval of Disclosure Statement and Confirmation of Chapter 11 Plan", at the time of filing the disclosure statement and plan. The court may deny conditional approval of a disclosure statement, conditionally approve a disclosure statement, or conditionally approve a disclosure statement subject to revisions to be made by the plan proponent prior to the final hearing. If the application for conditional approval is denied, no further hearing will be set to consider final approval of the disclosure statement.

[Comment: See Local Rule 9013-1(C)(13) (ex parte motion for court approval of disclosure statement must be served on the U.S. trustee).]

(B) Hearing on Final Approval of Disclosure Statement. If a disclosure statement is conditionally approved, the court shall enter the Local Form "Order Conditionally Approving Disclosure Statement and Setting Hearing on Final Approval of Disclosure Statement and Confirmation of Chapter 11 Plan". The hearing on final approval of the disclosure statement and the confirmation hearing shall be set for the same date, time and place. At that hearing, the court shall first consider final approval of the disclosure statement (as revised, if conditionally approved subject to revisions). If the disclosure statement is not finally approved, the court may deny confirmation or continue the confirmation hearing.

(C) Disclosure Statement Not Conditionally Approved. If a plan proponent does not seek conditional approval of a disclosure statement, the procedures contained in Local Rule 3017-1 shall apply.

(D) Disclosure Statement Conditionally Approved.

- (1) **Deadline for Objecting to Disclosure Statement.** If a disclosure statement has been conditionally approved, objections to the disclosure statement must be filed and served upon the debtor, the trustee, U.S. trustee, the plan proponent, any committee appointed under the Code and any other entity designated by the court at least 3 business days before the hearing on final approval of the disclosure statement.
- (2) **Service of Plan, Disclosure Statement, Ballot, and Notice; Deadline for Service.** After conditional approval of a disclosure statement and at least 20 days before the hearing on final approval of disclosure statement and confirmation hearing, the plan proponent shall serve the Local Form “Order Conditionally Approving Disclosure Statement and Setting Hearing on Final Approval of Disclosure Statement and Confirmation of Chapter 11 Plan”, together with the plan and disclosure statement (as revised, if conditionally approved subject to revisions), on the parties required by Bankruptcy Rule 3017(d), and shall serve a ballot in the form required by Local Rule 3018-1 on all creditors and equity security holders entitled to vote on the plan.

[Comment: See also Bankruptcy Rules 2002(b) and (d) and 3017(a) and (d) and Local Rule 2002-1(C)(8) (service of plan, disclosure statement, ballot, and local form order required) and Bankruptcy Rules 2002(k) and 9034 (service on U.S. trustee required). See also Local Rule 2002-1(C)(9) (service of notice on fee applications).]

Rule 3018-1. Acceptance or Rejection of Chapter 11 Plan; Deadline. Ballots shall conform to the Local Form “Ballot and Deadline For Filing Ballot Accepting Or Rejecting Plan” and shall be customized prior to service on each creditor by the plan proponent to reflect the class of that creditor. Except as otherwise ordered by the court, ballots accepting or rejecting a chapter 11 plan shall be filed with the court at least 10 days before the confirmation hearing; provided, however, that in small business cases ballots shall be filed at least 5 business days before the confirmation hearing.

[Comment: See also Local Rule 3020-1(A) (deadline for objecting to confirmation).]

✎ 2002 Amendment: Amended to reference change to local form ballot which requires customization of each creditor class before service by plan proponent.

Rule 3020-1. Confirmation of Chapter 11 Plans.

(A) Deadline for Objections to Confirmation. Objections to confirmation of a plan shall be filed at least 10 days before the confirmation hearing; provided, however, that in a small business case, objections shall be filed at least 3 business days before the confirmation hearing.

(B) Proponent's Report and Confirmation Affidavit to be Filed. The proponent of a chapter 11 plan shall file the Local Form "Certificate of Proponent of Plan on Acceptance of Plan, Report on Amount to be Deposited, Certificate of Amount Deposited and Payment of Fees" and the Local Form "Confirmation Affidavit" and shall deliver a copy of each form to the U.S. trustee, at least 3 business days before the confirmation hearing.

(C) Payment of Clerk's and U.S. Trustee's Fees. A plan shall not be confirmed unless the plan proponent's report required by this rule certifies that all outstanding fees payable to the clerk and the U.S. trustee under 28 U.S.C. § 1930 have been paid.

(D) Order to be Served. The order confirming plan shall be served pursuant to Bankruptcy Rule 3017(f) and Local Rule 2002-1(C)(11).

 2002 Amendment: Subdivision (D) amended to reference Bankruptcy Rule 3017(f).

Rule 3022-1. Final Decree in Chapter 11 Cases. Unless otherwise provided in the confirmation order, the debtor, or trustee if appointed, shall file the Local Form "Final Report and Motion for Entry of Final Decree", not later than 60 days after the order confirming the plan becomes final.

Rule 3070-1. Chapter 13 Payments.

(A) Commencement of Payments. Payments to the chapter 13 trustee pursuant to the proposed plan, as may be amended, shall commence not later than 30 days after filing the petition. If the case was converted to a chapter 13 case, payments shall commence not later than 30 days after entry of the conversion order. Payments shall be made directly to the trustee in the manner prescribed by the trustee.

(B) Dismissal of Case for Failure to Timely Remit Payments.

(1) Dismissal at the Meeting of Creditors. If, at the meeting of creditors, the debtor is not current in plan payments under the plan as originally filed, the chapter 13 trustee may submit a proposed order dismissing the debtor's chapter 13 case and the case may be dismissed without further notice or hearing. Dismissal shall be with prejudice to the debtor filing any bankruptcy case for a period of 180 days from entry of the order of dismissal.

(2) Dismissal Subsequent to Confirmation.


(a) Notice of Delinquency. The trustee may, upon the debtor's failure to timely make

any payment, serve a notice of delinquency upon the debtor and the debtor's attorney, along with a copy of this rule.

- (b) **Deadline to Cure Delinquency.** The debtor shall have 45 days from the date of the notice of delinquency to make all payments due under the plan, including any payments that become due within the 45-day period. If applicable, the debtor may, within 15 days of the notice of delinquency, file a motion to modify the confirmed plan accompanied by the Local Form "Notice of Hearing" as required pursuant to Local Rule 9073-1.
- (c) **Failure to Cure.** If the debtor is not current in plan payments on the 45th day after the date of the notice of delinquency, the trustee shall file and serve a report of noncompliance and the case shall be dismissed without further notice or hearing, with prejudice to the debtors filing any bankruptcy proceeding for a period of 180 days from entry of the order of dismissal. The court will not extend these deadlines absent extraordinary circumstances.

 2002 Amendment: Subdivision (B)(1) amended to incorporate AO 99-02 and AO 99-03.

(C) Wage Deduction Orders. A debtor who is not self-employed must submit a proposed Local Form "Agreed Order to Employer to Deduct and Remit and for Related Matters", accompanied by self addressed stamped envelopes for service of the order on the debtor, attorney for debtor, chapter 13 trustee and the employer named in the order, to the court prior to the § 341 meeting of creditors. The proposed order must be signed by the debtor and debtor's counsel and a copy must be served on the chapter 13 trustee. If a wage deduction order has not been entered the court will conduct an evidentiary hearing to determine feasibility at the confirmation hearing. The court will not confirm a case without a wage deduction order in place, absent extenuating circumstances.

 2002 Amendment: Subdivision (C) added to implement requirement of submission of Local Form "Agreed Order to Employer to Deduct and Remit and for Related Matters".

Rule 4001-1. Relief From Automatic Stay.

(A) Notice Requirements. Notice of any motion seeking relief from the automatic stay, pursuant to 11 U.S.C. § 362(d), shall be sufficient if served on the debtor, the debtor's attorney, the trustee, and any person known to the moving party to claim a legal or equitable interest in any property which may be the subject of the motion. In a chapter 11 case, when applicable, service must be in

accordance with Local Rule 2002-1(K), otherwise, the notice must be served on the debtor, the debtor's attorney, the trustee, if any, the U.S. trustee, the members of the creditors' committee or the committee's counsel and any other person known to the moving party to claim a legal or equitable interest in any property which may be the subject of the motion; however, if no creditors' committee has been formed then the notice may be served on the creditors holding the 7 largest unsecured claims according to the debtor's list of 20 largest creditors filed in the case.

✎ 2002 Amendment: Subdivision (A) amended to incorporate reference to new rule 2002-1(K).

(B) Contents of Motion. Motions for relief from the automatic stay must contain a short and plain statement of the facts upon which the request for relief is based, including a statement of any "cause" if based on 11 U.S.C. § 362(d)(1), and a statement of the amount of the debt, the estimated value of the collateral and the source of the valuation if based on 11 U.S.C. § 362(d)(2). In an individual chapter 7 case, the motion must also state whether the property has been claimed exempt by the debtor or abandoned by the trustee. If the motion seeks relief to enforce a lien, the following exhibits must be attached to the motion:

- (1) a copy, showing recording information, of any security agreement, mortgage or other lien claim which the moving party seeks to enforce;
- (2) a copy of any note or evidence of the obligation secured by the lien; and
- (3) an affidavit attesting to the amount of the indebtedness.

(C) Requests for Relief On Negative Notice. Creditors in chapter 7, 11, or 12 cases may seek relief from stay on negative notice if the motion meets the requirements of subdivision (B) above, is served in accordance with subdivision (A) above, and includes above the preamble and below the title of the motion the following bulletin in print either highlighted or bold so as to make it more prominent than the remainder of the text:

Any interested party who fails to file and serve a written response to this motion within 15 days after the date of service stated in this motion shall, pursuant to Local Rule 4001-1(C), be deemed to have consented to the entry of an order granting the relief requested in the motion.

When this bulletin is included in the motion, no hearing will be scheduled unless a response is filed. The failure of parties, properly served, to file a response within 15 days after service of the motion shall be deemed a consent to the granting of the requested relief. After the time to respond has

expired, the moving party shall either (a) promptly file the Local Form “Certificate of No Response or Settlement” accompanied by a proposed order pursuant to Local Rule 5005-1(G), or (b) promptly file the Local Form “Certificate of Contested Matter” accompanied by the Local Form “Notice of Hearing” pursuant to Local Rule 9073-1(A). The option provided in this paragraph is not intended to limit the court’s ability to grant or deny relief sooner than 15 days after service of the motion, or the court’s discretion to grant relief without a hearing either by consent of the parties or on verified motions which allege pursuant to 11 U.S.C. § 362(f) that immediate irreparable harm will result from the failure to grant emergency relief without a hearing. A party filing a motion for relief from stay pursuant to this subdivision is deemed to have consented to voluntarily extending, to a date 30 days after the filing of a Local Form “Certificate of Contested Matter” by the party filing the motion for relief from stay, the provision of 11 U.S.C. § 362(e) which provides for termination of the automatic stay within 30 days absent an order of the court continuing the stay.

(D) Contested Motions; Response. A response which objects to the granting of the requested relief shall identify the motion, the movant’s attorney, and the motion’s service date, and shall set forth a short and plain statement of the facts countervailing the motion, including: a statement of indebtedness, if the amount of debt is in dispute; a specific statement of any objection to the authenticity, accuracy or completeness of the moving party’s exhibits; and a statement of how the responding party proposes to adequately protect the moving party’s security interest, if it is the debtor who objected and adequate protection may be necessary; however, the objection of a chapter 7 trustee prior to the § 341 meeting need state only that the § 341 meeting has not yet been held and that the trustee lacks the necessary information to adequately respond further. The response must be served on the movant’s attorney and on the same parties on whom the motion was served. Notice, pursuant to Local Rule 9073-1(C), shall be served on the same parties on whom the motion was served.

(E) Hearing. A hearing scheduled on a motion for relief from the automatic stay will be a final hearing unless the court otherwise notifies the parties in advance. If the court designates the initial hearing as a non-evidentiary hearing, the hearing shall be restricted to the pleadings, affidavits and papers of record and to the arguments of counsel.

(F) Cooperation of Parties in Preparation for Hearing. At least 2 business days prior to an evidentiary hearing, the parties or their counsel must meet in an effort to identify those specific issues of fact or law genuinely in dispute, to exchange copies of appraisals and other exhibits and the names and addresses of witnesses the parties intend to offer at the hearing, and to discuss the possibilities of settlement. At the commencement of the hearing, the parties shall present an exhibit register in accordance with Local Rule 9070-1 and shall announce any stipulations of fact or law.

(G) Discovery. A party may take deposition testimony of any party or witness and may request the production of documents or things and inspection of land, upon actual delivery of at least 10 days’ notice, and the minimum time requirements of Bankruptcy Rules 7030 and 7034 shall not apply. The parties shall make their appraisers or other experts and fact witnesses, if any, available

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for deposition, without the need for subpoena, at least 2 business days before an evidentiary hearing, and the parties are expected to cooperate in exchanging information and documents without the need for formal discovery procedures. In extraordinary circumstances the court, upon motion of a party but without notice or hearing, may authorize the use of interrogatories or other discovery procedures, and may shorten the notice requirements of any applicable rule.

(H) Continuances. Continuances are governed by Local Rule 5071-1. A party seeking relief from the automatic stay who moves for continuance of the hearing waives the right to enforce the 30 day rule contained in 11 U.S.C. § 362(e), and the 30 day hearing requirement shall be deemed extended until the court's ruling at the rescheduled hearing.

[Comment: See also 28 U.S.C. § 1930 (clerk's fee required for motions for stay relief), Bankruptcy Rule 9014 (contested matters governed by general rules of discovery) and Local Rules 5071-1 (continuances), 7026-1 and 7027-1 (discovery), and the court's "Guidelines for Preparing Orders".]

Rule 4001-2 Cash Collateral. A motion seeking authority to use cash collateral pursuant to 11 U.S.C. § 363 shall comply with Bankruptcy Rule 4001(b) or (d) and Local Rules 9013-1(F) and (G).

☞ 2002 Amendment: New rule corresponding to new Local Rule 9013-1(G).

Rule 4001-3. Obtaining Credit. A motion seeking approval of postpetition financing pursuant to 11 U.S.C. § 364 shall comply with Bankruptcy Rule 4001(c) and (d) and Local Rules 9013-1(F) and (H).

☞ 2002 Amendment: New rule corresponding to new Local Rule 9013-1 (H).

Rule 4003-1. Exemptions

(A) Amendment of Claimed Exemptions; Modification of Deadline to Object to Claimed Exemptions. When amending the schedule of property claimed as exempt to add assets not previously listed, the debtor shall serve a copy of the schedule on the trustee, and shall serve notice on all creditors and counsel of record, or if applicable, those parties required to be served pursuant to Local Rule 2002-1(K), of the filing of the amendment and the extended deadline described in Bankruptcy Rule 4003(b) and subdivision (B) of this rule and file a certificate of service.

(B) Deadline to Object in Converted Cases. Upon conversion of an individual case, a new

deadline to object to property claimed as exempt shall be 30 days after the conclusion of the post-conversion meeting of creditors or within 30 days after any amendment to the list or supplemental schedule is filed, whichever is later.

☞ 2002 Amendment: New subdivision (B) added which clarifies that a new deadline to object to exemptions shall apply in converted cases.

[Comment: See also Bankruptcy Rule 1009 and Local Rules 1009-1 (amendments to schedules) and 2002-1(I) (certificate of service required).]

Rule 4003-2. Avoidance of Liens on Exempt Property. A debtor's motion to avoid a lien on exempt property under 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d) shall provide a full legal description of the property, and shall include as an exhibit a copy of the security agreement, judgment or other judicial paper giving rise to the lien and showing recordation information. The motion shall be served on the affected parties in accordance with Bankruptcy Rule 7004 and pursuant to either Local Rule 9013-1(D)(3)(f) or Local Rule 9073-1.

[Comment: See also Local Rule 5010-1 (reopening case to avoid a judicial lien).]

☞ 2002 Amendment: Amended to set forth service requirements.

Rule 4004-1. [Note: 4004-1 is a reserved rule number]

Rule 4004-2. Objections to Discharge.

(A) Modification of Deadline for Objections. In a chapter 7 case, the deadline set pursuant to Bankruptcy Rule 4004(a) for filing a complaint objecting to discharge is modified in the following circumstances:

- (1) Meeting of Creditors Untimely Noticed.** If service of the § 341 or post-conversion meeting notice is not timely provided pursuant to Bankruptcy Rule 2002(a) and Local Rule 2002-1(C)(1) and as a result of this failure to provide notice the § 341 meeting must be rescheduled before another notice can be served, the deadline for filing a complaint objecting to discharge shall be 60 days after the rescheduled date of the § 341 meeting.
- (2) Case Dismissed and Reinstated.** If a case is dismissed prior to the expiration of the deadline for objecting to discharge and subsequently reinstated:

- (a) in a case dismissed before the § 341 meeting is held, the new deadline for objecting to discharge shall be 60 days after the rescheduled § 341 meeting; or
- (b) in a case dismissed after the § 341 meeting is held, the new deadline for objecting to discharge shall be 60 days from execution of the order vacating the order of dismissal.

A proposed order reinstating a case submitted for consideration by the court in chapter 7 or 11 cases must contain the new deadlines prescribed by these local rules for reinstated cases. The clerk shall provide notice of the new deadline.

(B) Deadline for Objections in Chapter 11 Cases. Complaints objecting to the debtor's discharge under 11 U.S.C. § 1141 must be filed not later than the first date set for the hearing on confirmation.

Rule 4004-3 Discharge in General.

(A) The debtor shall be discharged upon determination that the debtor is eligible to receive a discharge under the Bankruptcy Code and that:

- (1) no complaint objecting to the discharge has been timely filed and subsequently sustained;
- (2) no motion to dismiss the case under 11 USC § 707 is pending;
- (3) no motion to extend the time for filing a motion to dismiss the case under Bankruptcy Rule 1017(e) is pending;
- (4) all filing and administrative fees and other charges due from the debtor have been paid;
- (5) in a chapter 12 case, the trustee has filed a final report certifying that all payments have been made pursuant to the confirmed plan; and
- (6) in a chapter 13 case, the trustee has filed a "Notice of Completion of Plan Payments".

(B) Notice of Discharge. The clerk shall serve the order of discharge in all chapter 7, 12 and 13 cases subject to the provisions of Local Rule 2002-1(C)(4). In a chapter 11 case, the order confirming a plan shall contain notice of the grant or denial of the discharge.

✎ 2002 Amendment: Subdivision (A) is amended to conform to Bankruptcy Rule 4004 (as amended effective December, 2002) and local procedural requirements.

Rule 4006-1. Notice of No Discharge. Orders denying discharge shall be served as provided in Rule 2002-1(C)(4).

Rule 4007-1. Modification of Deadline for Objecting to Dischargeability of a Debt. The deadline set pursuant to Bankruptcy Rule 4007(c) for filing a complaint objecting to dischargeability of a debt is modified in the following circumstances:

(A) Meeting of Creditors Untimely Noticed. If service of the § 341 or post-conversion meeting notice is not timely provided pursuant to Bankruptcy Rule 2002(a) and as a result of this failure to provide notice the § 341 meeting must be rescheduled before another notice can be served, the deadline for filing objections to dischargeability of a debt shall be 60 days after the rescheduled date of the § 341 meeting.

(B) Case Dismissed and Reinstated. If a case is dismissed prior to the expiration of the deadline for objecting to dischargeability and subsequently reinstated:

- (1)** in a chapter 7, 11 or 12 case dismissed before the § 341 meeting is held, the new deadline for filing objections to dischargeability shall be 60 days after the rescheduled § 341 meeting, and the clerk shall serve a new § 341 notice which notifies all creditors of the deadline; or
- (2)** in a chapter 7, 11 or 12 case dismissed after the § 341 meeting is held, the new deadline for filing objections to dischargeability shall be 60 days from execution of the order vacating the order of dismissal.

A proposed order reinstating a case submitted for consideration by the court in chapter 7, 11 or 12 cases must contain the new deadlines prescribed by these local rules for reinstated cases. The clerk shall provide notice of the new deadline.

[Comment: See Local Rule 5010-1(B) (Section 523(c) adversary proceeding required upon reopening case to add omitted creditor).]

Rule 4008-1. Reaffirmation.

(A) Local Form Required. Reaffirmation Without Notice, Hearing or Order. Reaffirmation agreements shall be submitted utilizing the Local Form “Reaffirmation Agreement” or a format that

substantially comports with the local form. No notice, hearing or order shall be necessary to confirm the effectiveness of a reaffirmation agreement, signed by all parties to the agreement, which conforms to the requirements of 11 U.S.C. § 524(c)(1) through (c)(5), filed prior to discharge, if the filing is accompanied by the declaration of the debtor's attorney described in 11 U.S.C. § 524(c)(3).

(B) Hearing Required for Pro Se Debtor. Notwithstanding the provisions of subdivision (A) of this rule, in cases in which the reaffirmation agreement is not signed by an attorney for the debtor, a Local Form "Motion for Approval of Reaffirmation Agreement Not Signed by Debtor's Attorney", accompanied by a Local Form "Notice of Hearing" pursuant to 9073-1(A) shall be required.

(C) Signature Subsequent to Entry of Discharge. A reaffirmation agreement signed by a debtor subsequent to entry of the discharge of debtor shall be declared invalid by the court.

✎ 2002 Amendment: Amended to incorporate provisions of AO 99-5 and adopts new Local Form "Motion for Approval of Reaffirmation Agreement Not Signed by Debtor's Attorney".

Rule 5001-1. Court Administration - Acting Chief Judge. Alternate Judge.

(A) Acting Chief Judge. If the chief judge is absent from the district or is unable to perform required duties, such duties shall be performed by the judge in active service, present in the district and willing to act, who is most senior on the date of the judge's commission, other than a recalled judge. Such judge is designated as the acting chief judge on such occasions.

(B) Alternate Judge. If a judge is unable to perform required duties, such duties may, with the consent of both judges, be performed by the judge designated by the chief judge as the "alternate judge" for that judge.

✎ 2002 Amendment: New rule setting forth policy on alternate judge.

Rule 5001-2. Clerk - Office Locations/After-Hours Depository; Security.


(A) Clerk's Office Locations. The main office of the clerk is located in Miami. Divisional offices are located in Ft. Lauderdale and West Palm Beach.

(B) After-Hours Depositories for Filing Papers. After-hours depositories for filing papers are established at each of the three clerk's office locations as set forth in the "Clerk's Filing Instructions". Use of after-hours depositories shall be limited to filings which are of an urgent

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nature and cannot otherwise be delivered to the clerk during normal hours of operation and is subject to the following conditions:

- (1) Papers placed in a depository between 4:30 p.m. and 5:00 p.m. shall be picked up by the clerk at 9:00 a.m. the following business day and date stamped on the day of pick up with the previous business day's date.
- (2) Papers placed in a depository in the morning prior to 9:00 a.m. shall be picked up by the clerk at 9:00 a.m. and date stamped on the day of pick up with the previous business day's date.
- (3) Papers placed in a depository between 9:00 a.m. to 4:30 p.m. will not be picked up until 9:00 a.m. the following business day and will be date stamped on the day of pick up with the previous business day's date.
- (4) If papers submitted pursuant to Local Rule 5005-1(F)(3) are filed using an after-hours depository they will be processed as set forth in subdivisions (1) through (3) of this rule. Parties filing emergency papers are responsible for ensuring that the papers are filed in sufficient time to allow the papers to reach the court in a timely manner.
- (5) No cash shall be placed in an after-hours depository.
- (6) The filing party is responsible for verifying receipt of papers placed in an after-hours depository.
- (7) Papers may not be served on the U.S. trustee or any other party by depositing them in an after-hours depository.
- (8) Any person entering a federal courthouse building will be required to pass through the magnetometer equipment before accessing the after-hours depository. All items carried by a person entering a federal courthouse building will be scanned through x-ray equipment.
- (9) Local Rule 5005-1(B) "Place of Filing" applies to filing papers using after-hours depositories.

 2002 Amendment - Amended to clarify that after-hours depositories are not to be used for routine filing.


(C) Court Security.

- (1) **Prohibited Materials.** No weapons (guns, knives or any other item which may be used as a weapon), computers, cameras, radios, electronic transmitters, tape-recorders or other such devices shall be permitted in the courtroom, chambers and/or other environs of this court. The court will not provide any storage space for prohibited items brought to the court's premises. No items may be left unattended in the court environs. Visitors to court environs housed in federal buildings shall be required to comply with and are subject to prosecution for violation of any existing law, order or other regulation in effect in the respective federal building.
- (2) **Smoking.** Smoking is prohibited in all environs of the court.
- (3) **Cellular Phones.** Telephones are permitted in court environs, however, they must remain off while court is in session.

Rule 5003-1. Records Kept by the Clerk.

(A) Automated Information Available. Certified Copies of Court Records. Although public access to case and proceeding dockets, claims registers, hearing calendars, and certain other information maintained in the court's automation systems is available through electronic access, such information is not deemed to be the official court record. Certified copies of official court records may be obtained from the clerk upon payment of any applicable search and copy fees.

[Comment: See also Local Rule 2002-1(E) (service databases to be maintained by clerk) and "Clerk's Instructions for Electronic Public Access Services".]


 2002 Amendment: Amended to clarify status of electronic case information.

(B) Closed Cases. The clerk is authorized to transfer to the Federal Records Center of the General Services Administration the files and records in any case which has been administratively closed for at least 6 months.

(C) Sealed Records.

- (1) **Local Form Cover Sheet Required.** The Local Form "Cover Sheet to Accompany Items Submitted for Sealing or In Camera Review", with items I-III of the form completed by the filer shall accompany:

- (a) sealed motions, either filed in advance of filing sealed documents or accompanied by sealed documents. (If both the motion and the sealed document are filed together as sealed items, only one cover sheet is required with the appropriate indication in section III of the form). Records or other court papers shall be sealed only upon order of the court directing the clerk as to the length of time during which the records shall remain sealed. Unless otherwise specifically ordered, the sealed papers may be unsealed upon the administrative closing of the case.
 - (b) sealed documents accompanied by unsealed motions to seal; and
 - (c) sealed documents being filed pursuant to a previously entered order allowing the document to be filed as sealed. If a sealed document is being filed pursuant to a previously entered order allowing the document to be filed under seal, a notice of filing sealed item and copy of the order directing sealing (unless order is sealed also) must accompany the cover sheet and sealed documents.
- (2) **Motion Required.** The local form cover sheet is to be filed in addition to, not in place of, a motion to seal or grant in camera inspection. If the movant requests that the documents remain under seal after closing, the motion should include this request.
 - (3) **Order Required.** Records or other court papers shall be sealed only upon order of the court.
 - (4) **Disposition of Sealed Documents Upon Case Closing.** Unless otherwise specifically ordered, the sealed papers may be unsealed upon the administrative closing of the case.

 2002 Amendment: Amended to incorporate the provisions of AO 01-4.

(D) Exhibits. Exhibits shall be maintained by the clerk only as provided by Local Rule 9070-1. Any exhibits not disposed of pursuant to Local Rule 9070-1 shall be transferred to the Federal Records Center when the closed case file is transferred.

Rule 5003-2. Court Papers - Removal Of. Inserting, removing, deleting, tampering with, defacing, or making any mark, entry or correction—by interlineation or otherwise—on any file or other record of the court, including electronic records, is prohibited, unless expressly permitted or ordered by the court. No person other than the clerk or court licensed copy services or court contract reporting services shall unfasten any paper from any court file. No records may be removed from the clerk’s office except by court order or authorization by the clerk which shall specify the time within which the records shall be returned, and the person taking possession of court records shall

be required to execute a receipt which lists the papers being removed.

Rule 5005-1. Filing and Transmittal of Papers.

(A) General Requirements. All papers filed with the court must conform to the format requirements in Local Rules 5005-3, 5005-4, 9004-1, 9004-2, 9011-4, and 9072-1 and must comply with the Bankruptcy Code, the Bankruptcy Rules and these rules.


(B) Place of Filing. Unless otherwise directed by the court, all papers to be filed or received by the court shall be delivered to the clerk's office, and not to a judge's chambers.

- (1) Petitions.** Petitions shall be filed in the division to which the case will be assigned divisional venue pursuant to Local Rule 1073-1(A).
- (2) Adversary Complaints or Miscellaneous Proceedings.** Adversary complaints or miscellaneous proceedings shall be filed in the division where the judge assigned to the related bankruptcy case or adversary proceeding is chambered or, if no related case or proceeding exists, in the division where the property is located or the defendant resides.

[Comment: See also 28 U.S.C. § 1409 and § 1410 (venue in certain instances).]

- (3) Proofs of Claim and All Other Papers.** Proofs of claim and all other papers filed or delivered after the case or proceeding is judicially assigned, should be filed in the divisional clerk's office where the judge assigned to that case is chambered.

[Comment: See Local Rules 1073-1 (divisional and judicial assignment), 1071-1 and 5001-2(A) (divisions of court), 3002-1(E) (service of copies of claims in chapter 13 cases), and 5003-1(C) (format for submission of sealed items).]

 2002 Amendment: Amended to incorporate the provisions of AO 01-6 regarding claims filing location.

(C) Deficient Petitions and Papers.

- (1) Petitions.** The clerk may refuse to accept for filing any petition which does not contain the debtor(s)' required signature(s) and address(es). Petitions presented for filing which do not conform to the official form, are filed without an attorney (non-individual debtors only), do not indicate a social security and/or identification number on the petition, are not accompanied by a creditor matrix, list of 20 largest unsecured creditors (chapter 11

- cases) or other document required at the time of filing shall be accepted for filing as deficient. The clerk shall, as provided by subdivision (C)(3) of this rule, serve a notice of deficiency giving the debtor a deadline to correct the deficiency to avoid dismissal of the case without further notice.
- (2) **Other Papers.** Any other paper which is otherwise presented in improper form may, depending upon the nature of the deficiency, be either docketed as deficient and without notice or hearing subject to entry of an order striking the paper or returned without filing.
- (3) **Clerk's Deficiency Notices.**
- (a) **Authority of Clerk to Prepare and Serve Deficiency Notices.** The clerk is authorized to prepare notices which establish deadlines for correction of filing deficiencies for service on parties filing papers not prepared or submitted in compliance with the administrative requirements contained in the Bankruptcy Code, Bankruptcy Rules, Local Rules, Court Administrative Orders or other procedures of this court.
- (b) **Content of Deficiency Notices.** A deficiency notice shall indicate the nature of the deficiencies, establish a deadline for correction of the deficiencies and set forth the consequences, including possible dismissal of the case without further notice, of failure to correct the stated deficiencies within the time indicated.
- (c) **Deadline to Correct Deficiency.** The deadline established pursuant to this rule for any deficiencies with respect to schedules and statements required to be filed pursuant to Bankruptcy Rule 1007(b)(1) shall be the 15 day deadline from the date of filing the petition established by Bankruptcy Rule 1007(c) or as extended by the court. All other deadlines for correction of deficiencies pursuant to this rule shall be a date no less than 5 days from the date of filing of the deficient paper. The actual deadline established by the clerk shall depend upon the nature of the deficiency to be corrected.

[Comment: See Local Rules 1002-1(B) (clerk authorized to refuse for filing certain voluntary petitions, 1006-1(C) (refusal of installment application and petition by clerk), 5080-1 (fees required).]

2002 Amendment: Amended to incorporate the provisions of AO 01-5.

- (D) **Return of Papers Filed in Closed Cases.** The clerk may return, without docketing, to the

filing party any paper which is tendered for filing after the administrative closing of the case or proceeding, except a motion to reopen or other paper specifically authorized by the order disposing of the case or proceeding.

(E) File-Stamping of Copies. The clerk shall mail a date-stamped copy to the filing party only if an additional copy of the paper is supplied along with an adequate size self-addressed stamped envelope.

(F) Submission of Papers in Matters Already Set for Hearing.

- (1) Deadline for Filing. Form of Response.** Memoranda, affidavits and other papers intended for consideration at any hearing already set before the court shall be filed and served so as to be received by the movant and the court not later than 4:30 p.m. on the second business day prior to the hearing, or the papers submitted may not be considered at the hearing. All responsive papers shall set forth any applicable defenses or objections in law or fact on which the respondent relies. All responsive papers shall be served in accordance with these local rules. This subdivision shall not apply to affidavits filed pursuant to Bankruptcy Rule 7056. This provision does not apply to amended chapter 13 plans, schedules or statements filed prior to a scheduled confirmation hearing under the deadlines established by Local Rules 1009-1(F) and 3015-2(A).
- (2) Mandatory Response - Hearings on at Least 16 Days' Notice.** Any party desiring to appear and be heard in connection with any hearing already set before the court on a motion filed in accordance with Local Rule 9073-1(B) as to which there has been at least 16 days' notice from the date of service of the Local Form "Notice of Hearing on at Least 16 Days' Notice - Responsive Papers Required", must file and serve a responsive pleading, objection, memoranda, affidavit or other paper intended for consideration at any such hearing in the form and by the deadline set forth in subdivision (1) of this rule. The court in its discretion may hear or may refuse to hear or consider a response, objection, memoranda, affidavit or other paper which was not timely filed and served. The discretionary factors that the court may consider include: the reason the opposition was not timely filed; the need for the court to consider the defenses or objections alleged in the order to determine the appropriate action, and the injury that might result to the opponent of the motion whose response is filed untimely. This subdivision shall not apply to affidavits filed pursuant to Bankruptcy Rule 7056 or cases pending under either chapter 12 or chapter 13 of the Bankruptcy Code.

[Comment: See Local Rule 9073-1(B) (requests for hearing on at least 16 days' notice).]

- (3) Emergency Submittal.** Memoranda, affidavits or other papers not filed prior to the deadline established in subdivision (1), but which the filing party deems necessary for the court's consideration at the scheduled hearing, may be considered at the hearing only

if accompanied by the Local Form “Notice of Late Filing of Paper Pursuant to Local Rule 5005-1(F)(3)” noting the emergency nature of the filing or stating the exceptional circumstances for the untimely filing. This provision does not apply to amended chapter 13 plans, schedules or statements filed prior to a scheduled confirmation hearing under the deadlines established by Local Rules 1009-1(F) and 3015-2(A).

[Comment: See subdivision (B) (all papers to be delivered to clerk, not to judge).]

- (4) Rule Not Applicable to Exhibits.** This rule shall not be construed to modify Local Rule 9070-1 regarding the presentation of papers introduced as evidence in a trial or evidentiary hearing.

(G) Submittal and Service of Orders.

- (1) Submittal of Proposed Orders and Envelopes.** Unless otherwise directed by the court or by these rules:

- (a)** Requests for relief which may be considered immediately by the court without opportunity for objection or hearing must be accompanied by a proposed order, with appropriate copies and sufficient sized stamped and addressed envelopes.

[Comment: See Local Rule 9013-1(C) (motions which may be considered without opportunity for hearing).]

- (b)** The proponent and any opponent of any requested relief set for hearing shall bring to the hearing a proposed order granting or denying the relief requested, with appropriate copies and sufficient sized stamped and addressed envelopes.
- (c)** The prevailing party in a hearing or trial shall submit a proposed order, with appropriate copies and envelopes, conforming to the decision of the court not later than 4:30 p.m. on the third business day following the hearing or trial. At the time of submittal, the proponent must provide a copy of the proposed order and any covering memo to all adverse parties unless the order conforms strictly to a local form.

In chapter 11 cases, appropriate copies shall include a copy for the U.S. trustee.

[Comment: See also “Guidelines for Preparing Orders” and Local Rule 2002-1(A) (notice of proposed relief must be served on all directly affected parties) and Local Rule 9072-1 (form of orders).]

- (2) Service of Entered Orders.** Unless otherwise directed by the court, if an order reflects

that more than 5 parties, including the proponent, are to be furnished copies, the party submitting the proposed order shall serve the entered order upon all named parties within 2 business days after entry of the order and shall promptly file a certificate of service. If not more than 5 parties are to be furnished copies, the clerk shall serve the entered order if sufficient sized stamped and addressed envelopes are provided. If the proposed order is one of those described in Local Rule 2002-1(C), service shall be made in accordance with that rule.

[Comment: See also “Guidelines for Preparing Orders” and Local Rules 2002-1(C) (service of particular orders), 2002-1(K) “Master Service List” in chapter 11 cases, and 9072-1(F) (service notation at end of order).]

✎ 2002 Amendment: Subdivision (G) amended to include requirements for envelopes and require service of orders within 2 days.

Rule 5005-2. Filing Papers - Number of Copies; Courtesy Copy. Where required pursuant to the “Clerk’s Filing Instructions”, a moving party shall furnish a “courtesy” copy with the original court paper. The “courtesy” copy shall be marked as such by the filer at the bottom center of the first page of the paper to distinguish it from the original or other copies of the paper. The original and the “courtesy” copy shall be filed together in one envelope and filed with the clerk’s office. No copies should be sent to the judges’ chambers.

✎ 2002 Amendment: Amended to clarify that “courtesy” copies should be filed with the original, not separated and sent separately to the clerk’s office and the judges’ chambers.

Rule 5005-3. Filing Papers - Size of Papers. All papers, including attachments and exhibits, shall be 8½ x 11 inches (letter-sized); attachments and exhibits may be photo-reduced if necessary. This subdivision is not intended to preclude the introduction of oversize exhibits at a trial or evidentiary hearing.

[Comment: See also Local Rule 9070-1(B) (oversize exhibits at trial).]

Rule 5005-4. Electronic Filing. Papers presented for filing must bear original, not photocopied or telecopied, signatures. Papers may not be presented on paper which is susceptible to fading.

[Comment: See also Local Rules 5005-1 (filing and transmittal of papers) and 9009-1 (local forms), and Bankruptcy Rules 9004 (general requirements of form), 9009 (forms) and 9013 (form of

motions).]

Rule 5007-1. Interpreters; Services for Persons with Communications Disabilities. Except for proceedings initiated by the United States or for those persons with communications disabilities, the court shall not provide interpreters or other accommodation. There is no requirement that an interpreter provided by any party be federally certified.

Rule 5010-1. Reopening Cases.

(A) Filing Fee. A motion to reopen a case must be accompanied by the filing fee in effect at that time unless the case is being reopened to correct an administrative error or for actions affecting the discharge of the debtor or unless the motion is being filed by a trustee and contains a request for deferral of payment of fee until assets are recovered from the estate.

[Comment: See "Clerk's Summary of Fees".]

(B) Reopening to Add a Creditor. In a no-asset individual chapter 7 case, a motion to reopen a case to add an omitted creditor must be accompanied by a proposed order conforming to the Local Form "Order Reopening Case to Add Omitted Creditor". The order shall direct the debtor to file amended schedules and an adversary complaint to determine dischargeability of each omitted creditor's claim within 15 days after entry of the order. No trustee shall be appointed. If the debtor fails to timely comply with the order, the case shall be re-closed without further notice.

[Comment: See also 11 U.S.C. § 523(a) (dischargeability of debt) and Local Rule 9013-1(D)(3)(j) (matters for which negative notice can be used).]

(C) Reopening to Administer Additional Assets. In a chapter 7 case, a motion to reopen a case to administer additional assets must be accompanied by a proposed order which conforms to the Local Form "Order Reopening Case to Administer Additional Assets".

(D) Motions to Reopen Chapter 13 Cases. A motion to reopen a chapter 13 case for the purposes of reinstating the case must comply with the provisions of Local Rule 9013-1(E)(3).

(E) Reopening to Correct Social Security Number of Debtor. A motion to reopen a case to correct the social security number of the debtor must be accompanied by the required reopening fee and must be filed in accordance with the provisions of Local Rule 1009-1(A)(2).

✎ 2002 Amendment: Amended to cross reference Local Rule 1009-1(A)(2) which incorporates the provisions of AO 99-1.

(F) Reopening Case to Avoid a Judicial Lien. Upon the filing of a motion to reopen case to avoid judicial lien, accompanied by the fee required by subdivision (A) of this rule, the case shall be deemed reopened without further order of the court. The court shall consider a motion to avoid judicial lien filed in accordance with Local Rule 4003-2 and served pursuant to either Local Rule 9013-1(D)(3)(f) or Local Rule 9073-1. The motion shall be served on the affected parties in accordance with Bankruptcy Rule 7004. Upon entry of an order on the motion to avoid judicial lien, the case shall be reclosed without further order of the court.

✎ 2002 Amendment: New rule setting forth procedures for reopening a case to avoid a judicial lien.

[Comment: See also 11 U.S.C. § 350(b) (reopening case).]

Rule 5011-1. Motions to Withdraw Reference.

(A) Place for Filing. Fee Required. A request for withdrawal in whole or in part of the reference of a case or proceeding, other than a *sua sponte* request by the judge, shall be filed by motion with the clerk of this court, accompanied by the required filing fee.

(B) Designation of Record; Response to Motion.

- (1) Designation of Record.** Motions for withdrawal of reference shall include a designation of those portions of the record of the case or proceeding that the moving party believes will reasonably be necessary or pertinent to the district court's consideration of the motion.
- (2) Response to Motion; Reply.** Within 10 days after service of the motion and designation, any other party may file and serve a response to the motion and a supplemental designation of record. The moving party may file and serve a reply to the response within 10 days after service of the response.
- (3) Exhibits.** Copies of court papers designated shall only be obtained directly from the official court records and shall be attached to the motion and to any supplemental designation filed.
- (4) Transcripts.** If the record designated by any party includes a transcript of any untranscribed bankruptcy court hearing, that party shall immediately after filing the designation deliver to the court reporter and file with the clerk of this court a written request for the transcript and make satisfactory arrangements for payment of its cost.

(C) Transmittal to District Court.

- (1) Transmittal of Record.** When the record is complete for purposes of transmittal, and after the time for filing a response or reply has expired, the clerk of this court shall promptly transmit to the clerk of the district court the motion to withdraw, all timely filed responses and memoranda, and the portions of the record designated.
- (2) Filing of Papers After Transmittal of Record.** After the opening of a docket in the district court, papers pertaining to the matter under review by the district court shall be filed with the clerk of the district court, but all papers relating to other matters in the bankruptcy case or adversary proceeding or contested matter shall continue to be filed with the clerk of this court.
- (3) Transmittal of File.** Unless otherwise directed by the district court judge:
 - (a)** if the district court withdraws the reference of the entire case (including all adversary proceedings) or an entire adversary proceeding, this court's clerk shall immediately transmit the entire case or proceeding file to the clerk of the district court; and
 - (b)** if the district court withdraws a portion of the case or proceeding, this court's clerk shall immediately transmit to the clerk of the district court such portions of the case or proceeding file as the parties designate.

[Comment: The General Order of the United States District Court for the Southern District of Florida referring all cases and proceedings arising under or related to Title 11, U.S.C. has been codified into District Court Local Rule 87.2.]

Rule 5011-2. Abstention.

(A) Deadline for Motion; Tolling of Time to Answer. A motion to abstain from a case under either 11 U.S.C. § 305 or 28 U.S.C. § 1334 shall be filed not later than 30 days following the first date set for the § 341 meeting of creditors. A motion to abstain from an adversary proceeding shall be filed not later than the date set for filing a response under Bankruptcy Rule 7012 and Local Rule 7012-1 or, if the proceeding was removed to this court pursuant to 28 U.S.C. § 1452, within 20 days after the removal petition is filed. If a motion for abstention is filed, the time for filing an answer or other responsive pleading shall be extended until 10 days after entry of an order denying such motion.

(B) Abstention Treated as Dismissal. An order of abstention from the case shall operate as a dismissal of the case or proceeding.

Rule 5071-1. Continuances. Requests for continuances of scheduled hearings shall be in the form

of a motion, and must:

- (A) state with particularity the grounds for the motion;
- (B) indicate whether a continuance previously has been granted and whether the opposing party consents;
- (C) certify that the client consents to the continuance; and
- (D) be filed at the earliest practical opportunity prior to the hearing.

The moving party shall submit a proposed order which provides blank spaces for the date and time of the rescheduled hearing in the event that the court grants the motion for continuance without hearing. Motions for continuance will be granted only under exceptional circumstances, and may be considered by the court without a hearing. The stipulation of all parties is not sufficient grounds, standing alone, for a continuance.

[Comment: Compare Local Rule 7090-1 (continuance of trial and pre-trial conferences). See also Local Rule 9013-1(C)(8) (no hearing necessary on motion for continuance).]

Rule 5073-1. Photography, Recording Devices, and Broadcasting. Except as required by authorized personnel in the discharge of official duties, all forms of equipment or means of photographing, tape-recording, broadcasting, or televising within the vicinity of any location designated for the holding of court in the district, including courtrooms, chambers, adjacent rooms, hallways, doorways, stairways, elevators, or offices of supporting personnel, whether the court is in session or at recess, is prohibited; provided that photographing in connection with special proceedings, as approved by a judge of this court, will be permitted.

[Comment: Substantially identical to Local Rule 77.1 of the district court.]

Rule 5080-1. Funds Collected, Deposited or Disbursed by the Clerk. The clerk shall not be required to accept any papers for filing, render any service or deposit or disburse any funds from the registry of the court unless any fee or service charge prescribed by statute or by the Judicial Conference of the United States is paid in advance or contemporaneously, except that child support creditors or their representatives may file papers without the required fees if the Local Form “Appearance of Child Support Creditor or Representative” has been filed with the court.

[Comment: See Local Rules 1006-1 (installment payments) and 7067-1 (registry funds) and “Clerk’s Summary of Fees”.]


Rule 5081-1. Fees - Form of Payment.

- (A) **Legal Tender.** Fees or other charges to be paid to the clerk, and any deposits to be deposited

with the clerk, must be tendered in one of the following forms:

- (1) U.S. legal tender, but cash may not be remitted by mail or placed in the after hours depository;
- (2) check, made payable to “Clerk, United States Court” in U.S. legal tender, drawn on an attorney’s trust or operating account (unless the maker is a debtor in a bankruptcy case) or on an account of the trustee appointed to the case for which the payment is remitted or of any United States, state or local government account. At the clerk’s discretion, personal checks may be accepted for payment of clerk’s fees, except that no personal checks will be accepted which are drawn on the accounts of individual or business debtors for payment of main, adversary, deconsolidation, removal, appeal or § 304 ancillary case filing fees, conversion fees, amendment fees, garnishment deposits, registration of miscellaneous proceedings, or any fee due upon filing of a motion.; or
- (3) cashier’s check or money order, made payable to “Clerk, United States Court” in U.S. legal tender.


The clerk may establish and publish additional conditions for acceptance of personal checks or payment by other method and may, at the clerk’s discretion, withdraw such privileges without further court order.

 2002 Amendment: Amended to incorporate the provisions of AO 99-7.

(B) Separate Checks Required for Each Case. A separate check, cashier’s check or money order in the amount of the filing fee must be submitted for each case filed when remitting payment in a form other than cash.

(C) NSF Checks. If any check or draft is returned for insufficient funds or other valid reason by the depository upon which drawn, a returned check fee will be assessed and the clerk may thereafter require cash, cashier’s check, or money order from the payor.

(D) Overpayment of Fees. Overpayments of fees of \$25.00 or less will not be refunded by the court. Refunds of overpayments in excess of \$25.00 must be requested in writing within 30 days.

 2002 Amendment: New rule setting forth court policy on overpayments.

[Comment: See Local Rule 7067-1 (registry funds).]

Rule 6004-1. Notice of Sale of Property.

(A) On Whom Served. Unless otherwise ordered by the court, notice of any use, sale, or lease of property shall be sufficient if served on the debtor, the debtor’s attorney, the trustee, the trustee’s attorney, the U.S. trustee, any party holding an interest in the property, all parties who have filed notices of appearance or requests for copies of notices, and all creditors. In a chapter 11 case, the notice need not be served on any creditors except those who are members of any creditors’ committee formed under 11 U.S.C. § 1102 or when applicable, those creditors pursuant to Local Rule 2002-1(K); provided, however, that when the proposed use, sale, or lease is of substantially all the property of the estate notice must also be served on all creditors.

§ 2002 Amendment: Subdivision (A) amended to incorporate reference to Local Rule 2002-1(K).

[Comment: See also Bankruptcy Rules 2002(h) and 2002(i) and Local Rule 2002-1(F).]

(B) Use, Sale, or Lease on Negative Notice. Unless otherwise ordered by the court, notice of a proposed use, sale or lease of property, other than cash collateral, not in the ordinary course of business, pursuant to Bankruptcy Rule 6004(a) and 11 U.S.C. § 363(b), shall include above the preamble and below the title of the notice the following bulletin in print either highlighted or bold so as to make it more prominent than the remainder of the text:

Pursuant to Bankruptcy Rule 6004 and Local Rule 6004-1(B), this proposed use, sale or lease will be deemed approved without necessity of a hearing or order if no objection to the use, sale or lease is filed and served within 20 days from the date of service of this notice.

An interested party’s failure to timely file an objection shall be deemed a consent to the use, sale, or lease. If no objection is filed or served, the proponent shall file a report certifying the lack of any response and the effectuation of the use, sale, or lease. If the proponent requests an order, the proponent shall submit a copy of the agreement of sale together with the Local Form “Certificate of No Response or Settlement” and the proposed order. If the agreement is voluminous, the basic sale terms may be described in the “Certificate of No Response or Settlement” instead of attaching a copy of the agreement. If an objection to the proposed use, sale, or lease of property is received or filed, the proponent of the use, sale, or lease of property shall promptly submit the Local Form “Certificate of Contested Matter”, accompanied by the Local Form “Notice of Hearing”.

[Comment: This rule applies only to notices of a use, sale or lease of property under Bankruptcy Rule 6004(a) and 11 U.S.C. § 363(b). Motions to approve sales under Bankruptcy Rule 6004(c) and 11 U.S.C. § 363(f), (g) and (h) and motions for use of cash collateral under 11 U.S.C. § 363(c)(2) and Bankruptcy Rule 4001(b) are governed by Local Rule 9013-1(D)(4)(c)(ii) and 9013-1(G). Notices of sale do not require orders to effectuate the sale if no objection is filed. Nevertheless, this

rule allows the proponent to submit an order where an order approving the sale is requested by the proponent for title or reporting purposes.]

Rule 6005-1. Auctioneers.

(A) Contents of Application to Employ Auctioneer. Applications for court approval of the employment of an auctioneer under 11 U.S.C. § 327(a) must be substantially in conformance to the Local Form “Application for Approval of Employment of Auctioneer”. The application shall:

- (1) state that: (a) an auction is in the best interest of the estate and should generate the highest and best value for the property; and (b) the proposed auctioneer is “disinterested” within the meaning of 11 U.S.C. § 101(14) and § 327(a);
- (2) state that: (a) the proposed auctioneer was selected after consideration of competitive bids obtained from at least one other qualified auctioneer, or explain why the applicant could not or did not deem it necessary under the circumstances to obtain competitive bids; (b) the terms of any rejected bids are available upon request from the applicant; and (c) the applicant has determined that acceptance of the selected bid is in the best interest of the estate;
- (3) include: (a) a statement of the maximum amount of costs and expenses which the estate will be obligated to reimburse the auctioneer; and (b) a clear summary of the relevant terms of the employment and the proposed compensation. Applications shall not include copies of the auctioneer’s standard auction contract in lieu of this statement and summary;
- (4) be accompanied by: (a) an affidavit substantially in conformance with the Local Form “Affidavit of Auctioneer”; and (b) a proposed order granting the application substantially in conformance with the Local Form “Order Approving Employment of Auctioneer”;
- (5) include, as exhibits, copies of the appropriate license and bond required by subdivision (B) of this rule; and
- (6) include a statement whether the auctioneer maintains insurance to cover lost, stolen or damaged property.

(B) Requirements for Auctioneer. Auctioneers whose employment is proposed must (i) be licensed pursuant to Florida Statutes § 468.381 *et seq.*, or § 468.387 for out-of-state auctioneers, (ii) be covered by the Florida Auctioneer Recovery Fund as required by Florida Statute § 468.392, and (iii) must either post a blanket (or case specific) fiduciary and faithful performance bond or surety bond, issued by a surety company approved by the Department of the Treasury, in an amount not less than the maximum expected proceeds of any proposed auction or combination of auctions, if a blanket bond. The bond must be in favor of the United States of America and the original bond shall be forwarded to the United States trustee, who will maintain and safeguard the original. A copy of the bond should be provided to the trustee and should be included as an attachment to the

application to employ auctioneer, as required by subdivision (A) of this rule.

✎ 2002 Amendment: Subdivision (B) amended to delete reference to bond to reflect change in Florida Statute and to conform to United States trustee bond requirements.

(C) Compensation. Compensation may be approved by the court upon any reasonable terms and conditions negotiated with the auctioneer including a flat fee, guaranteed return, percentage of gross revenue, buyer's premium or any other reasonable method, provided that the basis for determining the fee is clearly described.

(D) Notice and Hearing. The application may be granted without notice or hearing, if the application reflects that the facts and circumstances so warrant including the size of the auction, the size of the estate, or a special need for haste. The applicant must request a hearing on the application if any aspect of the proposed employment or auction is irregular.

(E) Service of Order. Upon entry of an order approving the employment, the applicant shall serve copies of the order together with the sale notice in accordance with Bankruptcy Rules 2002(a)(2) and (c)(1) and 6004.

(F) Auctioneer's Report Summarizing Sale; Payment of Fees. Upon the completion of the auction, the auctioneer shall file with the court a report (a) summarizing the results of the auction and (b) stating the fees and expenses which will be paid in accordance with the order. Copies of the report shall be served only on the U.S. trustee, the trustee, and any other party who specifically requests a copy, or if applicable, those parties required to be served pursuant to Local Rule 2002-1(K). The auctioneer's fees and expenses may be paid without the necessity of further notice or hearing unless a party in interest files an objection to the report within 10 days after the report is filed.

Rule 6006-1. Executory Contracts and Unexpired Leases.

(A) Required Bulletin in Orders. Orders rejecting an executory contract or unexpired lease shall include the following bulletin at the conclusion of the body of the order, in print either highlighted or bold so as to make it more prominent than any other text:

Any proof of claim for damages arising from the rejection must be filed with the court within 30 days after the entry of this order.

(B) Chapter 13 Cases. Any executory contract or unexpired lease of a chapter 13 debtor, which has not been assumed pursuant to court order prior to entry of an order confirming the debtor's chapter 13 plan or which is not assumed in the chapter 13 plan confirmed by the court, is deemed rejected upon entry of the confirmation order. The confirmation order shall contain language to this

effect.

[Comment: See also Local Rule 3003-1(C) (deadline for claims arising from rejection of executory contracts) and Local Rule 3015-3(B)(3) (local form orders required).]

✎ 2002 Amendment: New subdivision (B) to incorporate the provisions of AO 98-7.

Rule 6007-1. Abandonment of Property.

(A) Abandonment by Chapter 7 Trustee at § 341 Meeting. Notice shall be provided pursuant to Local Rule 2002-1(C)(1)(f)(ii) that the chapter 7 trustee may abandon at the § 341 meeting or post-conversion meeting all property that the trustee has determined is of no value to the estate. The trustee shall, within 2 business days after the meeting, file a report of property abandoned at the meeting of creditors, and any objection to the abandonment must be filed within 15 days after the meeting. The trustee's filing of a report of no distribution shall constitute an abandonment of all scheduled assets, but the withdrawal of a report of no distribution shall revert ownership of scheduled assets in the estate. If the chapter 7 trustee wishes to abandon property other than at the § 341 or post-conversion meeting, the provisions of subdivision (B)(1) must be followed.

(B) Other Abandonment. Except for abandonment by a chapter 7 trustee at the § 341 meeting or post-conversion meeting, the following provisions apply to abandonment by a trustee or debtor in possession in all cases:

- (1) Abandonment by Chapter 7, 11 or 12 Trustee or Debtor in Possession by Negative Notice.** Notices of proposed abandonment by the chapter 7 trustee other than at the § 341 meeting or by a debtor in possession shall include the following bulletin at the conclusion of the body of the notice, in print either highlighted or bold so as to make it more prominent than any other text:

Pursuant to Bankruptcy Rule 6007, the proposed abandonment will be deemed approved without necessity of a hearing or order, if no objection is filed and served within 15 days after the date of service of this notice.

Upon receipt of a timely filed objection or other response, the proponent of the abandonment shall promptly file the Local Form "Certificate of Contested Matter" accompanied by the Local Form "Notice of Hearing" pursuant to Local Rule 9073-1(A).

When the bulletin in this subdivision is included in the notice, the failure of a party, properly served, to file an objection within 15 days after service of the notice shall be deemed a consent to the proposed abandonment.

- (2) Abandonment by Trustee in Chapter 13 Cases.** Notice of abandonment of property by the chapter 13 trustee shall be provided in the order confirming plan. The chapter 13 trustee's abandonment shall be deemed approved without necessity of a hearing or order if no objection to the abandonment is filed and served upon the debtor and the chapter 13 trustee within 10 days after entry of the order confirming plan. The party filing the objection shall comply with the provisions of Local Rule 9073-1 with regard to scheduling an objection for hearing.

[Comment: See Local Rule 3015-3(B)(3) (local form order confirming chapter 13 plan).]

Rule 7003-1. Commencement of Adversary Proceedings.

(A) Cover Sheet. The Local Form "Adversary Proceeding Cover Sheet" must accompany all complaints. If more than one cause of action is pleaded in the complaint, all causes of action shall be indicated in the section of the cover sheet captioned "Nature of Suit".

(B) Title of Complaint. The title of the complaint must indicate, briefly, the nature of the relief sought.

[Comment: See also Local Rule 9015-1 (demand for jury trial).]

(C) Judicial Assignment. Adversary proceedings arising in or related to an existing bankruptcy case shall be assigned to the judge assigned to the existing case. Adversary proceedings transferred from another district shall be assigned randomly.

[Comment: See Local Rule 5005-1(B)(2) (place of filing).]

Rule 7004-1. [Note: 7004-1 is a reserved rule number]

Rule 7004-2. Summons in Adversary Proceeding. The party seeking issuance of a summons shall deliver to the clerk the Local Form "Summons and Notice of Pretrial/Trial in an Adversary Proceeding" (or where applicable, the Local Form "Third-Party Summons and Notice of Pretrial/Trial in an Adversary Proceeding"), with the style, the clerk's division address where the assigned judge is chambered, and the plaintiff's attorney's name and address filled in. A single summons form will be issued, but a copy of the summons must be served on each defendant in multiple-defendant cases.

✎ 2002 Amendment: Amended to reference new Local Form "Third-Party Summons and Notice of Pretrial/Trial in an Adversary Proceeding".

Rule 7012-1. Deadline for Answer or Response. The deadlines set by Bankruptcy Rule 7012 are

modified so that, if a summons and complaint are properly served, the defendant shall serve a response within 25 days after the date of issuance of the summons, except that if the defendant is the United States, it shall serve its response within 35 days after issuance of the summons.

Rule 7016-1. Pretrial Procedure.

(A) Scheduling Conference Requirements Inapplicable. The provisions of rule 16(b) of the Federal Rules of Civil Procedure shall be inapplicable to cases or proceedings in this court.

[Comment: See Federal Rule 16(b) (opt-out provision) and Local Rule 87.1 of the United States District Court (bankruptcy court's authority to enact local rules).]

(B) Pretrial Orders. The Local Form "Order Setting Filing and Disclosure Requirements For Pretrial and Trial" (specific to the judge assigned to the adversary proceeding) must be submitted upon commencing an adversary proceeding, and a copy must be served with all summonses and complaints.

[Comment: See also Local Rules 7026-1 and 7027-1 (discovery).]

Rule 7026-1. Discovery.

(A) Affirmative Disclosure Requirements. Except as otherwise ordered by the court, the provisions of rules 26(a), (d), and (f) of the Federal Rules of Civil Procedure shall apply to cases and proceedings in this court only to the extent set forth in the Local Form "Order Setting Filing and Disclosure Requirements for Pretrial and Trial".

(B) Service and Filing of Discovery Material. The following discovery requests and responses:

- transcripts of deposition upon oral examination;
- depositions upon written questions;
- responses or objections to depositions upon written questions;
- written interrogatories;
- answers or objections to written interrogatories;
- requests for production of documents or to inspect any tangible thing;
- objections to requests for the production of documents or to inspect any tangible thing;

- written requests for admission; and
- answers or objections to written requests for admission;

shall be served upon other counsel and parties but shall not be filed with the court, nor shall proof of service be filed, unless upon order of the court or as provided in subdivision (C). The party responsible for service of the discovery material shall retain the original and become the custodian. The original of all depositions upon oral examination shall be retained by the party taking the depositions.

(C) Filing of Discovery Materials Permitted in Certain Circumstances. If depositions, interrogatories, requests for documents, requests for admission, answers or responses are to be used at an evidentiary hearing or trial or are necessary to a pretrial or post-trial motion, the portions to be used shall be filed with the clerk at the outset of the evidentiary hearing or trial or at the filing of the motion insofar as their use can be reasonably anticipated by the parties having custody of the materials. When documentation of discovery not previously in the record is needed for appeal purposes, upon order of the court or by written stipulation of counsel, the necessary discovery papers may be filed with the clerk.

Rule 7027-1. Depositions and Examinations.

(A) Motions to Compel. Except for motions grounded upon complete failure to respond to the discovery sought to be compelled or upon assertion of general or blanket objections to discovery, motions to compel discovery in accordance with Bankruptcy Rules 7033, 7034, 7036, and 7037 shall quote verbatim each interrogatory, request for admission or request for production and the response to which objection is taken followed by (1) the specific objections, (2) the grounds assigned for the objection (if not apparent from the objection), and (3) the reasons assigned as supporting the motion, all of which shall be written in immediate succession to one another. Such objections and grounds shall be addressed to the specific interrogatory or request and may not be made generally.

(B) Motions for Protective Order. A party may file, prior to the date of a proposed deposition, a motion for protective order stating the reasons for prohibiting, limiting or rescheduling the deposition, and the deposition shall be stayed until the court rules on the motion.

(C) Certificate of Counsel as to Motion to Compel or Motion for Protective Order. Prior to filing a motion to compel discovery or a motion for protective order pursuant to Bankruptcy Rule 7026, counsel for the moving party shall confer with counsel for the opposing party and shall file with the clerk at the time of filing the motion a statement certifying that the movant's counsel has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised and that counsel have been unable to do so. If certain of the issues have been resolved by agreement, the statement shall specify the issues so resolved and the issues remaining unresolved.

[Comment: See also Local Rule 9073-1(D) (conference with opposing counsel required generally).]

(D) Reasonable Notice of Taking Depositions. Unless otherwise stipulated by all interested parties or directed by the court or by these rules, a party may take the deposition within this state of any person upon oral examination upon actual delivery of at least 7 days' notice in writing to every other party to the action and to the deponent (if the deposition is not of a party), and a party desiring to take the deposition in another state of any person upon oral examination shall give a least 10 working days' notice in writing to every other party to the action and to the deponent.

(E) Local Subpoena Forms. Subpoenas served in adversary proceedings or main cases shall conform to, as applicable, the Local Form "Subpoena in Adversary Proceeding" or the Local Form "Subpoena in Bankruptcy Proceeding".

✎ 2002 Amendment: Amended to incorporate reference to new Local Forms "Subpoena in Adversary Proceeding" and "Subpoena in Bankruptcy Proceeding".

[Comment: See also Bankruptcy Rule 9014 and Local Rule 9014-1 (contested matters are subject to discovery rules).]

Rule 7041-1. Dismissal of Adversary Proceeding.

(A) When No Summons is Provided. The court may, *sua sponte*, dismiss any adversary proceeding in which the plaintiff has not provided the clerk with a form summons to issue within 5 days after filing the complaint.

[Comment: See Local Rules 7003-1 (commencement of adversary proceeding) and 7004-2 (summons).]

(B) When Main Case Has Been Dismissed. The court may, *sua sponte*, dismiss all adversary proceedings arising in any case which has been dismissed.

Rule 7054-1. Taxation of Costs by Clerk; Motion for Fees and Costs.

(A) Authority to Tax Costs. The clerk shall tax costs only where the judgment entered by the court specifically awards costs to the prevailing party. The clerk shall only tax those costs as permitted by the court's "Guidelines for Taxation of Costs".

(B) Bill of Costs. A party who has been awarded costs shall submit a bill substantially conforming to the Local Form "Bill of Costs", accompanied by addressed stamped envelopes for all interested parties. A copy of the bill of costs shall be served by the requesting party on all interested parties. The clerk may require the submission of supporting documentation prior to determination of the bill

of costs.

(C) Deadline for Filing. The bill of costs shall be filed not later than 10 days after entry of the judgment or order allowing costs.

(D) Notice to Parties of Costs Taxed by Clerk. The clerk shall review the bill of costs and enter the amount of costs allowed on the bill. A copy of the bill of costs with the clerk's determination shall be served by the clerk on all interested parties.

(E) Objection to Taxation of Costs by Clerk. On a motion served within 5 days after entry of the bill of costs, the action of the clerk shall be reviewed by the court.

(F) Motion for Fees and Costs Not Taxable by Clerk. Fees and costs which the clerk is not authorized to tax pursuant to subdivision (A) shall be considered only upon motion to the court filed within 20 days after entry of the judgment.

[Comment: See also "Guidelines for Preparing Orders", Bankruptcy Rule 8014 and Local Rule 8014-1 (taxation of costs on appeal) and 28 U.S.C. §§ 1920 -1924.]

Rule 7055-1. Default. Motions for entry of default shall be verified and shall state that the defendant has been properly served with the complaint, that no response has been served on the plaintiff, and that the defendant—if an individual—is not a member of the military service. If defaults have been entered against all defendants, the plaintiff may submit a motion for judgment by default, a supporting affidavit calculating the amount of the damages sought, and a proposed judgment based on the allegations deemed admitted.

[Comment: See also "Guidelines for Preparing Orders".]

Rule 7067-1. Registry Funds; Deposit in Court.

(A) Fee. Money paid into the court pursuant to Bankruptcy Rule 7067, these local rules or other order of court shall be assessed a fee as authorized by the Judicial Conference of the United States as established by the Director of the Administrative Office of the United States Courts and as set forth by Administrative Order of this court.

(B) Deposit and Withdrawal. In addition to the requirements of Local Rules 5080-1 and 5081-1, registry account funds shall be deposited and withdrawn only pursuant to order of the court or a statute.

[Comment: See "Clerk's Summary of Fees" and Administrative Order "Registry Fund Fees".]

Rule 7069-1. Execution.

(A) Authority. Procedures in aid of execution of a judgment of this court may be conducted in the same proceeding in which the judgment was entered.


(B) Registration of Judgment from Another District. Judgments entered in another district may be registered in this district prior to or at the time a writ of execution or garnishment is sought by filing, with the clerk, a certified copy of the judgment (including any bill of costs entered), accompanied by the miscellaneous proceeding fee and the Local Form “Certification of Judgment for Registration in Another District” or a certified copy of an order allowing the judgment to be registered in this district.

(C) Writ of Execution. The party seeking the issuance of a writ of execution shall prepare the Local Form “Writ of Execution to the United States Marshal” for the clerk to issue. The writ shall be accompanied by a motion for writ and a certified copy of the judgment, including any bill of costs entered.

(D) Writ of Garnishment. Writs of garnishments shall be issued in accordance with Florida law.

- (1) Filing of Writ.** The party seeking issuance of a writ of garnishment shall file with the clerk a prepared writ accompanied by a certified copy of the judgment and any bill of costs entered, Local Form “Notice Pursuant to Florida Statute 77.041 to Defendant of Right Against Garnishment of Wages, Money and Other Property” with attached “Claim of Exemption and Request for Hearing” (with the caption of the case filled in on the form “Claim of Exemption and Request for Hearing”) and the deposit required pursuant to Florida Statute § 77.28. The writ shall advise the garnishee that the garnishor has deposited into the registry of the court the garnishee’s fee required by Florida law which shall be payable to the garnishee on demand. In addition to service of other garnishment papers, a copy of this rule shall be served on the defendant. If the writ is being sought pursuant to Florida Statute § 77.0305 (continuing writ of garnishment against salary or wages) or Florida Statute § 77.031 (issuance of writ before judgment), the filing of the writ must be accompanied by a motion and a proposed order.
- (2) Objection to Claim of Exemption.** An objection to a defendant’s “Claim of Exemption and Request for Hearing” shall be accompanied by a Local Form “Notice of Hearing” for processing and service in accordance with Local Rule 9073-1(A).
- (3) Dissolution of Writ by Clerk.** The clerk shall automatically dissolve the writ and notify the parties of the dissolution by mail upon failure of the plaintiff to timely contest the defendant’s claim of exemption.
- (4) Deadlines.** Absent further order of the court, the procedures and deadlines set forth in

Florida Statute § 77.041 shall apply to writs of garnishments issued in this court.

 2002 Amendment: Amended to incorporate the provisions of AO 01-3.

(E) Satisfaction of Judgment. Satisfactions of judgment shall be filed with the court promptly upon collection of the judgment.

(F) Effect of Appeal. The filing of a notice of appeal shall not stay issuance of a writ absent entry of an order granting stay of execution prior to the expiration of the time for appeal of the judgment.

Rule 7090-1. Continuance. Requests for continuance of a pretrial conference or trial shall be in the form of a motion, and must (1) state with particularity the grounds for the motion, (2) indicate whether a continuance has previously been granted and whether the opposing party consents, (3) certify that the client consents to the continuance, and (4) be filed at the earliest practical opportunity prior to the trial or pretrial conference. The moving party shall submit a proposed order which provides blank spaces for the date and time of the rescheduled trial or pretrial conference in the event that the court grants the motion without hearing. Motions for continuance will be granted only under exceptional circumstances, and the stipulation of all parties is not sufficient grounds, standing alone, for a continuance.

[Comment: Compare Local Rule 5071-1 (continuances of hearings), and Local Rule 9013-1(C)(8) (no hearing necessary on motion for continuance).]

Rule 8001-1. Notice of Appeal.

(A) Required Content and Fee. A notice of appeal shall contain the title and date of the order being appealed and shall be accompanied by a copy of the order being appealed and the prescribed fee. A separate notice of appeal and filing fee is required for each order being appealed other than appeals of an order and subsequent orders entered relating to the underlying order or judgment. If the prescribed fee does not accompany the notice of appeal, the appeal shall be dismissed by this court as authorized by District Court Local Rule 87.4(B).

(B) Copies and Envelopes Required. Each appellant shall file a sufficient number of copies of the notice of appeal and adequate size self-addressed, stamped envelopes to enable the clerk to serve the notice required by Bankruptcy Rule 8004.

Rule 8002-1. Time for Filing Notice of Appeal.

(A) Dismissal of Untimely Appeal. A notice of appeal filed after the time period specified in

Bankruptcy Rule 8002 will be dismissed by this court as authorized by District Court Local Rule 87.4(B).

(B) Premature Appeal. If a notice of appeal is filed after the announcement of a ruling by the court but before entry on the docket of the written judgment, order, or decree, the notice will be docketed but not served in accordance with Bankruptcy Rule 8004. Once the judgment is entered on the docket, the notice of appeal will be served by the clerk, noting the date the judgment was entered on the docket as the filing date of the notice of appeal.

Rule 8003-1. Motions for Leave to Appeal.

(A) Fee Required. A motion for leave to appeal shall be accompanied by the prescribed filing fee. A motion for leave to appeal not accompanied by the fee shall be dismissed by this court as authorized by District Court Local Rule 87.4(B).

(B) No Designation Required Until Leave to Appeal Docketed. The filing deadlines set forth in Bankruptcy Rule 8006 shall not begin until the district court order granting the motion is docketed in the bankruptcy court. Within 5 business days from the entry of the district court order granting a motion for leave to appeal, the appellant shall pay the prescribed appellate docketing fee to the clerk of the bankruptcy court.

[Comment: See “Clerk’s Instructions for Appeals”.]

Rule 8005-1. Motions for Stay. Motions for stay which request relief from the District Court must be filed directly with the District Court in accordance with District Court Local Rule 87.4(C). If a stay has been granted by the district court it shall be incumbent upon the movant to immediately file a copy of the district court ruling with the clerk of the bankruptcy court.

[Comment: See Local Rule 7069-1(F). (Writs shall issue absent entry of an order granting stay of execution).]

Rule 8006-1. Record and Issues on Appeal.

(A) Dismissal for Failure to File Designation of Record or Statement of Issues. If the appellant fails to file a designation of record or statement of the issues as required by Bankruptcy Rule 8006, this court shall dismiss the appeal as authorized by District Court Local Rule 87.4(B).

(B) Form of Designation; Preparation of Record. The designation shall include the titles and court paper numbers of the papers designated. The designating party shall submit, within 15 days of filing of the designation, a copy obtained directly from official court records of every item designated, including transcripts, as provided in Bankruptcy Rule 8006, except designated transcripts of untranscribed proceedings, as to which the procedure provided in Local Rule 5011-1(B)(4) shall apply. Failure to submit official court copies of the designated record shall be treated

as a failure to file the designation and this court shall dismiss the appeal as authorized by District Court Local Rule 87.4(B).

(C) Ordering Transcripts. The Local Form “Appeal Information Sheet” provided by the clerk shall be used to order any untranscribed portion of the record.

[Comment: See “Clerk’s Instructions for Appeals”.]

Rule 8011-3. Determination of Motion - Appeal. A motion to dismiss or other request for intermediate relief as contemplated under Bankruptcy Rule 8007(C), shall be filed directly with the district court in accordance with District Court Local Rule 87.4(C).

Rule 8011-4. Emergency Motion - Appeal; Request to Expedite Appeal. Bankruptcy appeals requiring expeditious treatment by the district court shall be brought to the attention of the clerk of the bankruptcy court by filing the Local Form “Request to Expedite Appeal” at any time prior to transmittal of the record. This request shall be brought to the attention of the clerk of the district court by the clerk of the bankruptcy court upon transmittal of the record on appeal.

Rule 8014-1. Taxation of Appellate Costs by Clerk; Motion for Fees and Costs.

(A) Authority to Tax Costs. The clerk shall only tax those costs as permitted by Bankruptcy Rule 8014 and the court’s “Guidelines for Taxation of Costs”.

(B) Bill of Costs. A party eligible for costs shall submit a bill substantially conforming to the Local Form “Bill of Costs”, accompanied by self-addressed stamped envelopes for all interested parties. A copy of the bill of costs shall be served by the requesting party on all interested parties. The clerk may require the submission of supporting documentation prior to determination of the bill of costs.

(C) Deadline for Filing. The bill of costs shall be filed not later than 30 days after entry of the judgment or order of the district court.

(D) Notice to Parties of Costs Taxed by Clerk. The clerk shall review the bill of costs and enter the amount of costs allowed on the bill. A copy of the bill of costs with the clerk’s determination shall be served by the clerk on all interested parties.

(E) Objection to Taxation of Costs by Clerk. On a motion served within 5 days after entry of the bill of costs, the action of the clerk shall be reviewed by the court.

(F) Motion for Fees and Costs Not Taxable by Clerk. Fees and costs which the clerk is not authorized to tax pursuant to subdivision (A) shall be considered only upon motion to the court filed within 30 days after entry of the judgment or order.

[Comment: See also Bankruptcy Rule 7054 and Local Rule 7054-1 (taxation of costs in adversary proceeding) and 28 U.S.C. §§ 1920 - 1924.]

Rule 9004-1. Requirements for Form and Style of Papers.

Papers tendered for filing shall meet the following requirements of form and style:

(A) Official Forms and Local Forms. Papers in the form prescribed by a local form or other form specifically authorized by the Bankruptcy Rules or these rules shall be deemed in compliance with this rule. All forms must be completed in their entirety.

[Comment: See also Local Rule 9009-1 (local forms).]

(B) Format. All court papers shall be plainly and legibly typewritten, printed or reproduced on one side of standard weight white/opaque paper only, with not less than 1½ spaces between lines except for quoted material. Margins shall be at least ¾ inch at the bottom and both sides and 1 inch at the top of each page.

[Comment: See also Local Rule 2002-1(H) (copies for service purposes may be 2-sided, but not “sandwiched”).]

(C) Multiple Pages. All papers of more than one page, except service matrices, must be securely fastened at the top left-hand corner and must be paginated at the bottom of each page.

(D) Hole-Punched. All papers, except service matrices and proofs of claim, shall be two-hole punched at the top.

(E) Jointly Administered Cases. All papers in other than the lead case shall be captioned under the lead case name and case number followed by the words “(Jointly Administered)” and, beneath that caption, the case names and numbers for the cases in which the paper is being filed. However, proofs of claim shall indicate only the case name and number of the case in which the claim is asserted. The style shall not use the word “Consolidated” to refer to joint administration, unless the estates have been substantively consolidated by court order.

(F) Substantively Consolidated Cases. All papers in substantively consolidated cases shall contain in the case style only the name and case number of the case into which the cases have been consolidated.

Rule 9004-2. Caption - Papers, General.

(A) Caption. The caption of all papers shall conform to applicable Official Form “Caption”. The court style shall be centered at the top of the first page, and the case number (with the suffix “-BKC-”

followed by the judge's initials) and chapter of the case shall appear to the right of the case style. The first page must reserve a space 2 inches square in the upper right-hand corner to accommodate the clerk's file stamp. Captions for subpoenas to be issued by this court for cases or proceedings pending in other districts shall contain the court style for this district and the case name for the district where the case is pending and shall include the out-of-district case number and the court name below the space provided for the case number assigned by this court.

(B) Title of Paper. The title of every paper filed, except exhibits, shall be in bold, identify the filing party and shall be descriptive of the paper, indicating the relief sought or the action proposed.

[Comment: See also Local Rules 7003-1(B), 9004-1(B), 9015-1(A), and 9075-1 (particular requirements in title).]

Rule 9005-1. Harmless Errors in Setting Deadlines. The clerk is authorized to correct any deadline established in error and to provide notice of the corrected deadline.

Rule 9009-1. Local Forms. The court may promulgate local forms which supplement or modify the Official Forms promulgated by the Judicial Conference of the United States and the additional forms promulgated by the Director of the Administrative Office of the United States Courts, and which complement these rules and the Bankruptcy Rules. Unless otherwise directed by the court, the applicable local forms must be used in every case or proceeding. Local forms shall be used without any variation, to the extent possible, and any variation or fill-in-the-blank portion must be underlined or bold. The clerk shall maintain a current set and list of all local forms, each bearing the date of its most recent revision, copies of which shall be made available in each office and on the court web site.

[Comment: See also Local Rule 9004-1(A) (official forms and local forms comply with format requirements for papers).]

Rule 9010-1. Notice of Appearance.

(A) Requirement of Notice of Appearance. Every attorney representing a party or witness in any case or proceeding in this court must file a notice of appearance in the case or proceeding, except that the notice need not be filed when the appearance has previously been evidenced by the filing of a paper on behalf of the client. For the purpose of this rule, the filing of any paper (other than a ballot or proof of claim) shall, unless otherwise specified, constitute an appearance by the attorney who signs it.

(B) Appearing Without an Attorney.

- (1) Corporations and Other Business Entities.** A corporation, partnership, trust, or other business entity cannot appear or act on its own behalf without counsel in a case or

proceeding, except to file a request for service of notices (pursuant to Bankruptcy Rule 2002), a proof of claim, a response to an objection to its claim, or a ballot, or to attend and inquire at the meeting of creditors held under 11 U.S.C. § 341.

- (2) **Parties Already Represented by Attorney.** A party who has appeared by attorney cannot thereafter appear or act in his or her own behalf in the case or proceeding—unless the attorney shall first have withdrawn as counsel pursuant to Local Rule 2091-1—except to file a proof of claim, or a ballot, or to attend and inquire at the meeting of creditors; provided, that the court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared by or is represented by an attorney.

Rule 9011-4. Signatures.

(A) **Identification of Attorney.** In the signature block of all court papers signed by an attorney, the attorney must be identified by name, state bar number, complete mailing address, telephone number and the name of the party who the attorney represents.

(B) **Certification of Attorney.** Papers filed by an attorney appearing:

- (1) as a qualified attorney pursuant to Local Rule 2090-1(A) must contain this certification: “I hereby certify that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this court set forth in Local Rule 2090-1(A)”. For voluntary petitions, this certification shall be included in the certification signed by the attorney for the debtor in the Local Form “Disclosure of Compensation of Attorney for Debtor”. For involuntary petitions, adversary complaints, motions and all other papers, the certification shall be included above the signature block for the attorney filing the petition, complaint, motion or other paper.
- (2) pro hac vice pursuant to Local Rule 2090-1(B)(2) must contain this certification: “I hereby certify that the undersigned attorney is appearing pro hac vice in this matter pursuant to court order dated (date)”. This certification shall be placed in papers in the locations described in subdivision (1) above.

[Comment: See Local Rules 1007-2(B) and 1009-1(D) (debtor must sign schedules, statements and lists), 2090-1 (attorneys) and Bankruptcy Rules 9010 (attorneys) and 9011 (effect of signature).]

Rule 9013-1. Motions.

(A) **Preamble.** This rule applies to all motion practice. Subdivision (B) describes the form, content, and service of motions. Local Rule 9073-1 describes the procedures to be followed where a hearing is required by these rules or the Bankruptcy Rules or requested by a party in interest.

Local Rule 9075-1 describes the procedures to be followed in emergency motion practice. Subdivision (C) describes matters which may be considered by the court, ex parte, without conducting a hearing. Subdivision (D) describes matters which may be considered by the court without a hearing, provided the motion contains a specified bulletin and is served on all required parties and no objections are filed or served. Subdivision (E) describes matters which may be considered by the court in dismissed or closed cases. Subdivisions (F) through (K) address expedited hearings for certain motions in chapter 11 cases.

(B) Form, Content, Service of Motions. The form of motions and other requests for court action or relief is governed by Local Rules 5005-3, 5005-4, 9004-1, 9004-2, 9011-4, and 9072-1. All motions must state with particularity the grounds for the motion and must request specific relief.

(C) Motions Which May Be Considered Without a Hearing (Ex Parte Motions). Unless otherwise directed by the court, no hearing is required for the following motions, or for any other motion for which the Bankruptcy Rules or these rules provide that no hearing is necessary. The moving party shall follow the procedure in Local Rule 5005-1(G)(1)(a), not the procedure in Local Rule 9073-1. Upon entry of an order, the motion and entered order must be served as required by these rules. This subdivision is not intended to restrict a judge's authority to grant relief without a hearing on other motions.

- (1) Motions in which the movant certifies that all affected parties have consented to the requested relief.
- (2) Motions to extend the time for filing schedules, statements, or lists, where the requested extended deadline is not later than 5 days before the § 341 meeting or post-conversion meeting. The motion must be served on the debtor, the trustee, the U.S. trustee, and all parties who have requested notices. In a chapter 11 case, where applicable, the notice must also be served on the parties listed on the "Master Service List" filed pursuant to Local Rule 2002-1(K). The date of the § 341 meeting or post-conversion meeting shall be set forth in the motion. If no date has yet been set, the motion should state this.

✎ 2002 Amendment: Amended to require movant to indicate in the motion if no date has been set.

[Comment: See also Local Rules 1007-1(C) and 1019-1(A) (extension of time to file schedules, statements, and lists).]

- (3) Motions to approve employment of professionals, where the motion does not seek approval of a postpetition retainer or a particular fee arrangement and the motion does

not reveal any actual or potential conflict of interest or any other facts that could preclude retention. The motion must be served on the debtor, the trustee, the U.S. trustee, and the attorney for or members of any creditors' committee or, in the absence of a committee, the 20 largest unsecured creditors in a chapter 11 case, and all parties who have requested notices. In a chapter 11 case, when applicable, the notice must also be served on the parties listed on the "Master Service List" filed pursuant to Local Rule 2002-1(K).

[Comment: See also Local Rules 2014-1 (employment of professionals) and 6005-1 (employment of auctioneers).]

- (4) Motions to approve employment of real estate brokers, and to fix compensation for brokers, where the motion seeks to fix the compensation at the standard rate charged for similar services. The motion must be served on the debtor, the trustee, the U.S. trustee, and the attorney for or members of any creditors' committee or, in the absence of a committee, the 20 largest unsecured creditors in a chapter 11 case, and all parties who have requested notice. In a chapter 11 case, where applicable, the notice must also be served on the parties listed on the "Master Service List" filed pursuant to Local Rule 2002-1(K).

[Comment: See also Local Rules 2014-1 and 9013-1(C)(3) (employment of professionals).]

- (5) Motions to extend time to file objections to claimed exemptions, where the motion reflects that:
 - (a) the debtor has consented to the requested relief;
 - (b) the debtor has failed to appear at a properly scheduled Bankruptcy Rule 2004 examination;
 - (c) the debtor has failed to produce properly requested documents; or
 - (d) despite reasonable diligence by the movant, discovery has been propounded which is not due until after the deadline, or Bankruptcy Rule 2004 examinations have been noticed for a date after the deadline and the discovery is necessary to evaluate whether to file an objection.

Unless the debtor agrees to a longer extension, the requested extension cannot be longer than 30 days after the original (or previously extended) deadline. The motion shall be served on the debtor, the trustee, and any creditor included in the moving party's request for extension.

- (6) Motions to extend time to file complaints objecting to discharge under 11 U.S.C. § 727

or complaints objecting to dischargeability under 11 U.S.C. § 523 but only if the debtor consents to an extension. The motion must indicate in the body if it is an agreed motion and indicate the date the petition was filed.

[Comment: See Bankruptcy Rules 4004 and 4007.]

- (7) Motions to shorten or extend time for responding to discovery requests. The motion must be served on all interested parties or if applicable, pursuant to Local Rule 2002-1(K).

[Comment: See also Local Rules 4001-1(G) (discovery in stay relief matters), 7016-1 (judges' pre-trial procedures), and 7027-1(D) (depositions).]

- (8) Motions for continuances of hearings, trials or pre-trial conferences. The motion must be served on all interested parties or if applicable, pursuant to Local Rule 2002-1(K).

[Comment: See Local Rules 5071-1 (continuance of hearings) and 7090-1 (continuances of trials or pre-trial conferences).]

- (9) Motions for pro hac vice appearance. The motion must be served on the debtor, the trustee, the U.S. trustee, and all interested parties or if applicable, pursuant to Local Rule 2002-1(K).

[Comment: See Local Rule 2090-1 (attorneys).]

- (10) Motions by the chapter 7 trustee to approve sales of property for \$2,000 or less. The motion must be served on the debtor and the U.S. trustee.

[Comment: See also Bankruptcy Rule 6004 and Local Rule 6004-1 (sales).]

- (11) Motions to reopen chapter 7 cases to administer additional assets. The motion must be served on the debtor and the U.S. trustee.

[Comment: See Local Rules 5010-1(C) and 9013-1(D)(3)(j) (reopening closed case).]

- (12) Motions by debtors to convert under 11 U.S.C. § 706(a) or 11 U.S.C. § 1112(a). The motion must be served on the U.S. trustee and the trustee, if applicable, or when applicable, pursuant to Local Rule 2002-1(K).
- (13) Motions seeking conditional approval of disclosure statements in small business chapter 11 cases. The motion must be served on the U.S. trustee, or when applicable, pursuant to Local Rule 2002-1(K).

(14) Motions for joint administration of chapter 11 cases.

[Comment: See Local Rule 3017-2.]

(D) Motions Considered on Negative Notice.

- (1) Introduction.** Certain motions may be considered by the court without a hearing if appropriate notice and an opportunity to object to the relief requested is provided to interested parties (“negative notice”). Local Rules 3007-1(C) (objections to claims), 4001-1(C) (relief from stay), 6004-1(B) (notice of sale), and 6007-1(B)(1) (abandonment of property) have procedures for the use of negative notice. This subdivision (D)(1) applies to matters other than those in Local Rules 3007-1(C), 4001-1(C), 6004-1(B), and 6007-1(B)(1). The option provided in this rule is not intended to limit the court’s discretion to grant or deny relief sooner than 20 days after service of the motion.
- (2) Use of Bulletin; Procedures.** Excepting matters governed by Local Rules 3007-1(C), 4001-1(C), 6004-1(B), and 6007-1(B)(1), whenever the Bankruptcy Code or Bankruptcy Rules provide that an order may be entered “after notice and a hearing” or similar phrase, the motion may include above the preamble and below the title of the motion the following bulletin (in print either highlighted or bold so as to make it more prominent than the remainder of the text):

NOTICE

Any interested party who fails to file and serve a written response to this motion within 20 days after the date of service stated in this motion shall, pursuant to Local Rule 9013-1(D), be deemed to have consented to the entry of an order in the form attached to this motion. Any scheduled hearing may then be canceled.

Each motion filed under this subdivision must attach a proposed order as an exhibit thereto. When this bulletin is included in the motion, a party properly served who fails to file a written response thereto within 20 days after service of the motion shall be deemed to have consented to the entry of the order. Within 5 days after the expiration of the 20 day notice period, the moving party shall submit to the court the following: (i) if no response is received or filed, the Local Form “Certificate of No Response or Settlement” and the proposed order granting the relief requested; or (ii) if a response contesting the relief requested is received or filed, the Local Form “Certificate of Contested Matter” accompanied by the Local Form “Notice of Hearing”. If a certificate

of contested matter is filed, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The “Notice of Hearing” shall be served by movant in accordance with the procedures contained in Local Rule 9073-1(C).

(3) Matters For Which Negative Notice May Be Used. The following is a non-exclusive list of matters which may be considered without a hearing:

- (a)** Motions to compel abandonment of property (Bankruptcy Rule 6007(b));
- (b)** Motions to approve compromise or settlement (Bankruptcy Rule 9019);
- (c)** Motions to approve accounting by prior custodian (Bankruptcy Rule 6002);
- (d)** Motions to extend time to object to exemptions (Bankruptcy Rule 4003(b));
- (e)** Motions to temporarily allow claim for voting purposes (Bankruptcy Rule 3018(a));
- (f)** Motions to avoid liens on exempt property (Bankruptcy Rule 4003(d));
- (g)** Motions to obtain credit (11 U.S.C. § 364);
- (h)** Motions to convert case, but not in chapter 13 cases (11 U.S.C. §§ 706(b), 1112(a), and 1208(c));
- (i)** Motions to dismiss case, but not in chapter 13 cases (11 U.S.C. §§ 707, 1112(b), and 1208(c));
- (j)** Motions to reopen chapter 7 cases to add omitted creditors.

(4) Matters Not Within Scope of Rule. The following matters may not be considered by negative notice under Local Rule 9013-1(D):

[Comment: Compare 11 U.S.C. § 102(1) (definition of “after notice and hearing”) with “after hearing on notice” language used in objections to classification (Bankruptcy Rule 3013), motions to modify plans (Bankruptcy Rule 3019), and motions to extend time to file complaints objecting to discharge or dischargeability (Bankruptcy Rules 4004 and 4007), among others. See also Bankruptcy Rules 1014, 1017(e), 2007(a), 3008, 3012, 3013, and 6008.]

- (a)** objections to claims, motions for relief from stay, notices of use, sale or lease of property, or notices of abandonment;

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[Comment: Separate rules are applicable. See Local Rules 3007-1(C)(objections to claims: 30 days), 4001-1(C) (motions for stay relief: 15 days), 6004-1(B) (notice of sale: 20 days: order not necessary) and 6007-1(B)(1) (notices of abandonment: 15 days: order not necessary).]

- (b) motions which must be acted upon only “after a hearing on notice”; and
- (c) the following motions:
 - (i) motions to assume or reject executory contracts or unexpired leases, or to compel assumption or rejection;
 - (ii) motions to use, sell, or lease property except motions by a chapter 7 trustee to sell property for \$2,000 or less as described in subdivision (C)(10) of this rule;

[Comment: See Bankruptcy Rule 6004; see also Local Rule 6004-1(B)(notice of sale).]

- (iii) motions to approve employment of professionals except those described in subdivision (C)(3) of this rule;

[Comment: See Bankruptcy Rule 2014.]

- (iv) motions to extend exclusivity period;

[Comment: See 11 U.S.C. § 1121(d).]

- (v) motions for payment of administrative expenses, including professional fees;

[Comment: See 11 U.S.C. § 503(a), § 330 and § 331, but see special notice requirements in Bankruptcy Rule 2002(e)(2) and Local Rule 2002-1(C)(9).]

- (vi) motions to appoint trustee or examiner;

[Comment: See 11 U.S.C. § 303(g) or § 1104.]

- (vii) motions to convert or dismiss chapter 13 cases;

[Comment: See 11 U.S.C. § 1307.]

- (viii) motions which seek alternative relief;
 - (ix) motions to modify chapter 13 plans;

- (x) motions for joint administration in cases other than chapter 11; and
- (xi) motions to dismiss involuntary cases for failure to appear at the meeting of creditors.

(E) Motions Filed In Dismissed or Closed Cases; Motions to Rehear, Reconsider or Vacate Orders Dismissing Chapter 13 Cases.

- (1) **Dismissed Cases.** Motions filed in dismissed cases or proceedings, except motions to reconsider the dismissal, shall be processed in accordance with the directions of the judge assigned to the case or proceeding.
- (2) **Closed Cases.** The clerk may return without docketing (to the moving party) any motion which is filed after the administrative closing of the case or proceeding, except a motion to reopen or a motion specifically authorized by the order disposing of the case or proceeding.
- (3) **Motions to Rehear, Reconsider or Vacate Orders Dismissing Chapter 13 Cases.** A motion to rehear, reconsider or vacate an order dismissing a chapter 13 case must be:
 - (a) If filed by an attorney, accompanied by a certificate which states that the debtor has tendered to the attorney all funds required to be paid under the debtor's plan to bring the plan current as of the date of the motion and that said funds are in the attorney's trust account; or
 - (b) If the debtor is not represented by counsel, accompanied by a photocopy of the cashier's check(s) or money order(s), made payable to the chapter 13 trustee, which will be tendered to the chapter 13 trustee by the debtor to bring the plan current if the case is reinstated.

Motions in chapter 13 cases complying with this provision shall be scheduled for hearing before the respective judge at the monthly chapter 13 calendar or, at the judge's discretion, set for hearing on an emergency basis. Motions not in compliance with these provisions will be denied without further notice or hearing.

In addition, a dismissed chapter 13 case shall not be reopened unless the debtor is current under the previously confirmed plan as of the hearing on the debtor's motion to rehear, reconsider or vacate an order of dismissal.

[Comment: See Bankruptcy Rule 1017 and Local Rules 1017-2 (dismissal), 5005-1 (filing and transmittal of papers), and Local Rule 5010-1(D) (reopening chapter 13 cases), and 11 U.S.C. § 350 (closing case).]

(F) Expedited Hearings for Certain Motions Filed in Chapter 11 Cases. The motions specified in subdivisions (G), (H), (I), (J), and (K) of this Rule filed in a chapter 11 case shall be filed in accordance with Local Rule 9073-1(A), scheduled for hearing within 2 business days if reasonably possible and served, as applicable, pursuant to Local Rules 2002-1(K) or 9073-1(C). If the judge assigned to the case is unable to hear the motions within 2 business days, the motions shall be scheduled by the clerk, whenever possible, before the judge's designated alternative judge within the required time.

✎ 2002 Amendment: New rule to provide for expedited hearings for certain motions in chapter 11 Cases.

(G) Motion Seeking Authority to Use Cash Collateral. A motion seeking authority to use cash collateral pursuant to 11 U.S.C. § 363 shall comply with Bankruptcy Rule 4001(b) or (d) and must identify:

- (1) the secured creditor having a security interest in the cash collateral;
- (2) the basis upon which the secured creditor is entitled to assert a security interest in the cash collateral;
- (3) the amount owed to the secured creditor;
- (4) whether the debtor is waiving claims against the secured creditor and validating the secured creditor's security interest in its collateral;
- (5) the period of time from and after the appointment of a committee pursuant to 11 U.S.C. § 1102 that such committee will have to analyze and object to the validity, priority and extent of the secured creditor's liens;
- (6) that the waiver is not binding on a subsequently appointed trustee in the case; and
- (7) if the debtor seeks the use of cash collateral sooner than 15 days after service of the motion, the amount of cash collateral which the debtor seeks authority to use from the date of the preliminary hearing on the motion through and until the final hearing on the motion.

The motion shall have as an attachment a budget setting forth the projected cash flow of the debtor for the period of time for which the use of cash collateral is sought.

✎ 2002 Amendment: New rule to provide for requirements for motions seeking authority to use of cash collateral for which expedited hearings will be set pursuant to Local Rule 9013-1(F).

(H) Motions for Approval of Postpetition Financing. A motion seeking approval of postpetition financing pursuant to 11 U.S.C. § 364 shall comply with Bankruptcy Rule 4001(c) and (d) and must identify:

- (1) the creditor from which the debtor is seeking authority to obtain credit;
- (2) the collateral in which the creditor is seeking to obtain a security interest, if any;
- (3) the amount of the loan proposed to be extended by the creditor;
- (4) the applicable interest rate and payment terms of the proposed credit; and
- (5) if the debtor seeks authority to obtain credit sooner than 15 days after service of the motion, the amount of credit which the debtor seeks authority to obtain from the date of the preliminary hearing on the motion through and until the final hearing on the motion.

The motion shall have as an attachment a budget setting forth the projected cash flow of the debtor for the period of time for which the credit is sought.

✎ 2002 Amendment: New rule to provide for requirements for motions for approval of postpetition financing for which expedited hearings will be set pursuant to Local Rule 9013-1(F).

(I) Motions for Authority for the Payment of Prepetition Wages. A motion seeking authority to pay employees of the debtor prepetition wages outstanding as of the petition date shall

- (1) include a schedule setting forth:
 - (a) the name of each employee to whom such wages are sought to be paid;
 - (b) the amount due such employee as of the petition date;
 - (c) the amounts to be withheld from such wages, including all applicable payroll taxes

and related benefits;

- (d) the period of time for which prepetition wages are due;
 - (e) whether the employee is presently employed by the debtor; and
- (2) identify whether any of the employees constitute insiders as defined in 11 U.S.C. § 101(31).

The motion shall also include a representation by the debtor that all applicable payroll taxes and related benefits due to the debtor's employees will be paid concurrently with payment of the wages.

✎ 2002 Amendment: New rule to provide for requirements for motions for the authority for payment of prepetition wages for which expedited hearings will be set pursuant to Local Rule 9013-1(F).

(J) Motions for Authority to Maintain Prepetition Bank Accounts. A motion seeking authority to maintain prepetition bank accounts shall include:

- (1) a schedule listing each prepetition bank account which the debtor seeks to maintain postpetition;
- (2) the amount on deposit in each such account as of the petition date; and
- (3) whether the depository is an authorized depository pursuant to 11 U.S.C. § 345(b).

If the debtor is unable to provide the foregoing information, the motion shall set forth the reason why such information is not available, and provide an estimate as to when the debtor shall be able to supplement its motion with such information.

✎ 2002 Amendment: New rule to provide for requirements for motions for authority to maintain prepetition bank accounts for which expedited hearings will be set pursuant to Local Rule 9013-1(F).

(K) Motions for Authority to Pay Prepetition Claims. A motion seeking authority to pay prepetition claims deemed critical by the debtor shall include:

- (1) a schedule of the names of each claimant;
- (2) the amount due each claimant;
- (3) a description of the goods or services provided to the debtor by each claimant;
- (4) facts and law supporting payment of the prepetition debt under the doctrine of necessity;
and
- (5) whether the claimant has made any concession or other agreement in consideration for the proposed payment, including the extension of postpetition trade credit.

✎ 2002 Amendment: New rule to provide for requirements for motions for authority to pay prepetition claims deemed critical by the debtor for which expedited hearings will be set pursuant to Local Rule 9013-1(F).

Rule 9013-2. [Note: 9013-2 is a reserved rule number]

Rule 9013-3. Certificate of Service.

(A) Service. The service of motions is governed by this rule, Local Rule 2002-1(A) and Bankruptcy Rules 7004, 9013, and 9014. All motions shall contain a certificate of service, unless service of the motion is certified in the notice of hearing.

(B) Alternative Relief. Matters which may be considered on negative notice under Local Rules 3007-1(C), 4001-1(C), 6004-1(B), 6007-1(B)(1), and 9013-1(D) may not seek relief under more than one of these rules and may not be combined with motions for which negative notice is unavailable. In such instances, the court may deny the relief requested or require the filing of separate motions.

[Comment: See also Local Rule 2002-1(I) (certificate of service).]

Rule 9014-1. Contested Matters. Local Rules 7026-1 and 7027-1, regarding discovery, are applicable to all contested matters.

[Comment: See also Local Rules 4001-1(G) (discovery in stay relief matters) and 5071-1, 9013-1, 9019-1, 9073-1, 9074-1, and 9075-1 (motions and hearings).]

Rule 9015-1. Pleading and Responding to Jury Trial Demand.

- (A) **Title of Pleading.** If the complaint, answer or other pleading includes a demand for a jury trial, the words “Demand for Jury Trial” shall be included in the title of the pleading.
- (B) **Deadline for Demand.** Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be included in a pleading of the party.
- (C) **Deadline for Response.** If a jury demand contains consent to jury trial by a bankruptcy judge, all other parties shall file a response within 10 days containing a statement consenting or not consenting to jury trial by a bankruptcy judge.
- (D) **Specification of Issues.** In the demand a party may specify the issues which the party wishes so tried; otherwise the party shall be deemed to have demanded trial by jury for all the issues so triable. If the party has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such shorter time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.
- (E) **Waiver.** The failure of a party to serve a demand as required by this rule and to file it constitutes a waiver by the party of trial by jury. A demand for trial by jury may not be withdrawn without the consent of the parties.

Rule 9016-1. Subpoenas for Cases in Other Districts.

The issuance of subpoenas in the name of this court pursuant to Fed. R. Civ. P. 45(b)(3) for use in an action pending in another court does not require the opening of a miscellaneous proceeding, but the clerk shall open a miscellaneous proceeding and collect the appropriate filing fee if a motion or other paper is filed for the record or for the court’s consideration.

Rule 9019-1. Settlement of Matters. In instances where negative notice is used regarding the settlement of a dispute, and no opposition to the motion is timely filed with the court, the movant shall submit to the court a copy of the settlement stipulation along with the Local Form “Certificate of No Response or Settlement and Request for Entry of Order” and a proposed order. If the settlement stipulation is voluminous, the basic terms thereof may be described in the Local Form “Certificate of No Response or Settlement and Request for Entry of Order” instead of attaching copies thereto.

Rule 9019-2. Mediation.

(A) Registration of Mediators.

- (1) Mediation Register.** The clerk shall establish and maintain a register of qualified attorneys and retired federal and state judges who have registered to serve as mediators in adversary proceedings and contested matters in cases pending in the court. Attorneys and retired federal and state judges who meet the qualifications described in subdivision (2) shall be so registered. This subdivision shall not preclude an individual from serving as a mediator if the parties to the dispute agree upon the selection of that mediator. However, a mediator selected by the parties and not registered under this rule nonetheless shall comply with the other provisions of this rule where applicable.
- (2) Qualifications of Mediator.** To qualify for service as a mediator under this rule, a mediator must:

 - (a)** be an active member of The Florida Bar and qualified to practice in this court or be a retired federal or state judge;
 - (b)** have been admitted to practice in a state or federal court for at least the past 5 years or be a retired federal or state judge;
 - (c)** have completed a minimum of 40 hours in a circuit court mediation training program certified by the Florida Supreme Court or be certified by the Florida Supreme Court as a circuit court mediator; and
 - (d)** agree to accept at least 2 mediation assignments per year in cases where at least one party lacks the ability to compensate the mediator, in which case the mediator's fees shall be reduced accordingly or the mediator shall serve pro bono if no litigant is able to contribute compensation.
- (3) Procedures for Registration.** Each attorney or retired federal or state judge who wishes to be included on the register must file the Local Form "Verification of Qualification to Act as Mediator".
- (4) Removal from Register.** The clerk shall remove a mediator from the register of mediators at the mediator's request or at the direction of a majority of the judges of the court in the exercise of their discretion. If removed at the mediator's request, the mediator may later request to be added to the register by submitting a new verification form. Upon receipt of such request, the clerk shall add the qualified mediator to the register.

- (5) Mediator's Oath.** Every mediator shall take the oath or affirmation prescribed by 28 U.S.C. § 453 before serving as a mediator. The oath may be administered by any person authorized to administer oaths, and proof of the oath or affirmation shall be included on the Local Form "Verification of Qualification to Act as Mediator".
- (6) Compensation of Mediators.** Mediators shall be compensated at the rate set by the U.S. District Court for the Southern District of Florida and as adopted by this court by local rule or administrative order or at such rate as may be agreed to in writing by the parties and the mediator selected by the parties. Absent agreement of the parties to the contrary, the cost of the mediator's services shall be borne equally by the parties to the mediation conference, but a case trustee's or debtor in possession's share of the cost shall be an expense of the estate.

(B) Referral of Matters to Mediation.

- (1) Manner of Referral.** The court may order the assignment of a matter or proceeding to mediation at a pretrial conference or other hearing, upon the request of any party in interest or the U.S. trustee, or upon the court's own motion. The court shall use the Local Form "Order of Referral to Mediation", which shall: (a) designate the trial or hearing date, (b) direct that mediation be conducted not later than 10 days before the scheduled trial or hearing, and (c) require the parties to agree upon a mediator within 7 days after the date of the order. The parties shall timely file the Local Form "Notice of Selection of Mediator", failing which the clerk shall designate a mediator from the clerk's register on a random basis within court divisions using the Local Form "Notice of Clerk's Designation of Mediator" and serve this notice on the required parties. Notwithstanding the assignment of a matter or proceeding to mediation, the court shall set such matter or proceeding for trial, final hearing, pretrial conference or other proceeding as is appropriate in accordance with the Bankruptcy Rules and these rules.
- (2) Disqualification of Mediator for Cause.** Any person selected as a mediator may be disqualified for bias or prejudice as provided in 28 U.S.C. § 144 and shall be disqualified in any action in which the mediator would be required to do so if the mediator were a judge governed by 28 U.S.C. § 455.
- (3) Replacement of Mediator.** If any party to the mediation conference, for any reason, objects to the designated mediator, then within 3 days from the date of the notice of designation, the objecting party shall file with the clerk, and serve upon the mediator and all other parties to the mediation, a request for an alternate mediator including in the request the name of any alternate mediator already agreed upon by the parties. If the alternate mediator has been agreed upon, the clerk shall designate that mediator. Otherwise, the clerk shall designate a second mediator from the register of mediators on a random basis and shall serve a second notice of designation on all parties to the

mediation conference and on the designated mediator. Each party shall be entitled to one challenge to any clerk-designated mediator. A mediator who is unable to serve shall, within 5 days from the date of the notice of designation, serve on the clerk and all parties to the mediation a written notice of inability to serve, and the clerk shall designate an alternate mediator in the manner described above.

- (4) **No Stay.** Notwithstanding a matter being referred to mediation, discovery and preparation for trial or final hearing shall not be stayed by mediation.
- (5) **Types of Cases Subject to Mediation.** Any adversary proceeding or contested matter may be referred by the court to mediation.

(C) Mediation Conference.

- (1) **Notice and Procedures.** Upon consultation with the parties and their attorneys, the mediator shall fix a reasonable time and place for the mediation conference, except as otherwise agreed by the parties or by order of the court, and shall give the parties at least 10 days' advance written notice of the conference. The conference shall be set as soon after the entry of the mediation order and as far in advance of the final evidentiary hearing as practicable. In keeping with the goal of prompt dispute resolution, the mediator shall have the duty and authority to establish the time for all mediation activities including a deadline for the parties to act upon a settlement or upon mediated recommendations.
- (2) **Attendance of Parties Mandatory.** An attorney who is responsible for each party's case shall attend the mediation conference. Each individual party and the representatives of each non-individual party shall appear with the full authority to negotiate the amount and issues in dispute without further consultation. The mediator shall determine when the parties are to be present in the conference room. No party can be required to participate in a mediation conference for more than 2 hours.
- (3) **Public Entity as Party.** If a party to mediation is a public entity, either a federal agency or an entity required to conduct its business pursuant to Chapter 286, Florida Statutes, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity.
- (4) **Failure to Attend.** The mediator shall report to the court willful failure to attend the mediation conference or to participate in the mediation process in good faith, which failure may result in the imposition of sanctions by the court.

(D) Recommendations of Mediator. The mediator shall have no obligation to make any written

comments or recommendations other than the report required by subdivision (E). If a written recommendation is prepared, no copy shall be filed with the court.

(E) Post-Mediation Procedures. Within 5 days after the mediation conference, the mediator shall file with the court a report showing compliance or non-compliance by the parties with the mediation order and the results of the mediation, using the Local Form “Report of Mediator”. In the event there is an impasse, the mediator shall report that there is a lack of agreement, and shall make no further comment or recommendation. If the parties have reached an agreement regarding the disposition of the matter or proceeding, they shall prepare and submit to the court within 10 days after the filing of the mediator’s report an appropriate stipulation of settlement and joint motion for its approval. Failure to file such a motion shall be a basis for the court to impose appropriate sanctions. If the mediator’s report shows mediation has ended in an impasse, the matter will be tried as scheduled.

(F) Confidentiality. Conduct or statements made in the course of mediation proceedings constitute “conduct or statements made in compromise negotiations” within the meaning of Rule 408 of the Federal Rules of Evidence, and no evidence inadmissible under Rule 408 shall be admitted or otherwise disclosed to the court.

(G) Withdrawal from Mediation. Any action or claim referred to mediation pursuant to this rule may be exempt or withdrawn from mediation by the presiding judge at any time, before or after reference, upon motion of a party and/or a determination for any reason that the case is not suitable for mediation.

(H) Compliance with Bankruptcy Code and Rules. Nothing in this rule shall relieve any debtor, party in interest, or the U.S. trustee from complying with any other orders of the court, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these rules.

Rule 9021-1. Judgment. Judgments shall conform to the requirements of Local Rule 9072-1. To the extent practicable, every judgment shall contain the mailing address of the judgment creditor and shall state the social security number or tax identification number of the judgment debtor.

[Comment: Conforms to 1993 Florida statute requiring this information on all judgments to be recorded as liens and 28 U.S.C. § 1962 (state law governs judgment lien).]

Rule 9027-1. Removal; Deadline for Motion to Remand. Motions for remand after removal of a case, proceeding, or civil action, must be filed not later than 20 days after removal.

Rule 9070-1. Exhibits.

(A) Preparation for a Hearing or Trial. Exhibits must be pre-marked prior to the commencement of any hearing or trial. Plaintiff/movant and defendant/respondent exhibits shall be identified by corresponding exhibit tags. Plaintiff(s)’ exhibits shall be marked numerically and

defendant(s)' exhibits shall be marked alphabetically. Exhibits shall be accompanied by the Local Form "Exhibit Register" and sufficient copies of the register and all exhibits for each party and the judge.

(B) Oversize Exhibits. Any physically large exhibit unsuitable for storage at the court shall be returned to the party introducing it for retention until the matter is no longer subject to appellate review. Parties receiving such exhibits shall be responsible for producing them if required for an appellate record or for review by interested parties.

(C) Temporary Release of Exhibits. No exhibit received in evidence will be released from the court during the evidentiary proceedings without an order of court, except as provided in subdivision (B). Upon the entry of an order, the party to whom the exhibit is to be released shall prepare a receipt, precisely describing the exhibit and its corresponding number, for temporary release. The receipt must be signed by the attorney or other court-approved agent receiving the exhibit.

(D) Withdrawal or Disposal Upon Finality. After a matter is no longer subject to appellate review an exhibit may be returned to the party offering it without court order upon a written request stating that no appeal is pending and the case or proceeding is final. The requesting party shall furnish the clerk with an adequate size, self-addressed, stamped envelope or shall make other appropriate arrangements for return of the exhibit. Any exhibit not returned within 30 days after a matter is no longer subject to appellate review may be destroyed or otherwise disposed of by the clerk without further notice.

Rule 9071-1. Settlements in Cases with Pro Se Debtor Defendants.

(A) Settlement Stipulations. Any stipulation filed to settle an adversary proceeding with a pro se debtor defendant must be accompanied by the Local Form "Notice of Hearing".

(B) Hearings on Settlements. Settlements of adversary proceedings with pro se debtors will be approved only if the court finds:

- (1) if the nature of the complaint is to determine dischargeability of a debt, that there is a justiciable issue as to the nondischargeability of the creditor's claim;
- (2) that the agreement represents a fully informed and voluntary agreement of the debtor;
- (3) that the agreement does not impose undue hardship on the debtor or dependent of the debtor; and
- (4) that the settlement is in the best interest of the debtor.

(C) Referral of Pro Se Debtor Defendant to Pro Bono Representation. In those cases where

it appears that there is reasonable doubt as to the validity of the creditor's claim, the court will refer the debtor to the pro bono committee of the Bankruptcy Bar Association of the Southern District of Florida for the purpose of obtaining pro bono representation in a trial of the adversary case.

Rule 9072-1. Orders - Proposed.

All proposed orders shall conform to the court's "Guidelines for Preparing Orders" and must:

- (A) conform to the requirements of Local Rules 9004-1 and 9004-2(A);
- (B) in the title, reflect whether the order grants or denies the requested relief, if applicable;
- (C) in the preamble, identify the motion or other request considered, and the date of the hearing or trial, if applicable;
- (D) in the closing, state that the relief is "Ordered in the Southern District of Florida on _____ (Date left blank for entry by court) _____";
- (E) in the judge's signature block, state the name of the judge followed by "United States Bankruptcy Judge"; and
- (F) below and to the left of the judge's signature block, identify all parties who are to receive a conformed copy of the order and—if the attorney submitting the proposed order is required to serve copies—note that "[Submitting attorney's name] is directed to serve copies of this order on the parties noted above and to file a certificate of service".

[Comment: See Local Rules 5005-1(G) (submittal and service of proposed orders) and 9021-1 (judgments), and Bankruptcy Rules 7054 and 9021 (judgments).]

Rule 9073-1. Hearings.

(A) **Scheduling of Hearing (Regular Settings).** Motions and other requests for relief for which a hearing is required or requested must be accompanied by the Local Form "Notice of Hearing", with the caption of the case and description of the motion filled in, along with a self-addressed stamped envelope. The clerk will set the hearing, execute the notice, and return it to the movant for service.

(B) **Requests for Hearing on at Least 16 Days' Notice - Responsive Papers Required.** Parties in chapter 7 or chapter 11 cases electing to trigger the mandatory requirement set forth in Local Rule 5005-1(F)(2) to file and serve responsive papers shall include above the preamble and below the title of the motion the following bulletin in print either highlighted or bold so as to make it more prominent than the remainder of the text:

Hearing Requested on at Least 16 Days' Notice - Responsive Papers Required and Mandated By Local Rule 5005-1(F)(2)

The motion shall be accompanied by the Local Form "Notice of Hearing on at Least 16 Days' Notice-Responsive Papers Required", with the caption of the case and description of the motion filled in, along with a self-addressed stamped envelope. The clerk will, (i) set the hearing on a date which will allow for at least 16 days' notice from the date of service of the hearing notice by movant's counsel; (ii) execute the notice; and (iii) return the notice to the movant for service.

[Comment: See Local Rule 5005-1(F)(2) (mandatory response requirement).]

(C) Service and Filing of Notice of Hearing. The movant must serve the notice upon the same parties served with the motion, immediately upon receiving it from the court, and must file the notice with a completed certificate of service not later than 2 business days before the scheduled hearing. A request for relief as to which a proper notice of hearing is not timely filed may be denied *sua sponte* by the court without further notice or hearing.

(D) Conference With Opposing Counsel Required. If a motion seeks relief involving the debtor, the trustee, or a particular adverse party, the motion and Local Form "Notice of Hearing" shall include a certification that movant's attorney has contacted all adverse parties to attempt to resolve the matter without hearing.

[Comment: See also Bankruptcy Rule 9011 (effect of signature) and Local Rule 7027-1(A) (motions to compel discovery).]

Rule 9074-1. Telephone Conferences.

A party to a contested matter may request to participate in any hearing by telephone conference by contacting the judge's calendar clerk at least 2 business days prior to the date of the hearing. Unless the judge otherwise specifically directs, this procedure is available only to parties who are not residents of this district. Telephone hearings may be deferred by the judge to the end of the hearing calendar, so the party must remain available for the court's call from the scheduled hearing time until the end of the day's hearing calendar. The court need not postpone the hearing because of the party's unavailability or telephonic transmission problems.

Rule 9075-1. Emergency Motions.

If a motion or other paper requests an emergency hearing, the title of the motion or paper shall include the words "Emergency Hearing Requested". Any motion or paper requesting an emergency hearing shall set forth with particularity, under a separate heading in the text:

(A) the reason for the exigency and the date by which movant reasonably believes such hearing

must be held; and

(B) a certification that the proponent has made a bona fide effort to resolve the matter without hearing.

Emergency hearings shall be held only where direct, immediate and substantial harm will occur to the interest of an entity in property, to the bankruptcy estate, or to the debtor's ability to reorganize if the parties are not able to obtain an immediate resolution of any dispute.

[Comment: See also Local Rules 5005-1(B) (papers to be filed with clerk, not court) and 5005-1(F)(3) (emergency submittal of papers).]

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